WAGANAKISING ODAWA

TRIBAL CODE of LAW

WOTCL Effective through September 1, 2009
Compiled by dlb

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
WAGANAKISING ODAWAK TRIBAL CODE of LAW

INTRODUCTION

This Code contains all laws enacted by the Little Traverse Bay Bands of Odawa Indians that were current and in effect on September 01, 2009. To ensure that all legislative information is up to date, users should check the Odawa Register at www.ltbbodawa-nsn.gov to obtain any Tribal Statutes or Resolutions that are enacted after September 1, 2009. This Code is updated annually.

TERMINOLOGY AND ABBREVIATIONS: The Tribal Council chronologically identifies the statutes it passes as "Waganakising Odawak Statute *year+number."* For instance, the first statute enacted in 1999 was "Waganakising Odawak Statute 1999-001," the tenth statute enacted in 2005 was "Waganakising Odawak Statute 2005-010," etc. In this Code "Waganakising Odawak Statute" is abbreviated to WOS. The statutory source of each section of this Code is identified in parentheses immediately following each section showing the statute number and date of passage by Tribal Council. This Waganakising Odawak Tribal Code is abbreviated to WOTCL. Resolutions are sourced by the date and order of passage by Tribal Council, i.e. the first Resolution passed on September 9, 2009 would be 09092009-001.

NUMBERING: The enacted statutes are organized in this WOTCL by subject matter in a series of Titles and Chapters. The numbering of the Constitution, which appears as Title I, is left in its original format. All subsequent WOTCL sections are numbered by title, chapter and section. For instance, 6.501 is title VI, chapter 5, section 1. Statutes are complied within Title 2-15 and Resolutions can be found in Title 16.

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TITLE I. CONSTITUTION

[*The Constitution, adopted by the Tribal membership on February 1, 2005 and deemed approved by operation of Federal law on March 18, 2005, is reprinted below without any changes to the original numbering format. The remainder of this Code is numbered by title and chapter with a citation to the Waganakising Odawak Statute source below each code section. The previous Tribal Court Statute, WOS 1995020, as amended, was effectively repealed and replaced by Article IX of the Constitution.*]

PREAMBLE

IN THE WAYS OF OUR ANCESTORS, to perpetuate our way of life for future generations, we the Little Traverse Bay Bands of Odawa Indians, called in our own language the WAGANAKISING ODAWAK, a sovereign, self-governing people who follow the Anishinaabe Traditions, Heritage, and Cultural Values, set forth within this Constitution the foundation of our governance. This Constitution is solemnly pledged to respect the individuality of all our members and their spiritual beliefs and practices, while recognizing the importance of preserving a strong, unified Tribal identity in accordance with our Anishinaabe Heritage. We will work together in a constructive, cooperative spirit to preserve and protect our lands, resources and Treaty Rights, and the right to an education and a decent standard of living for all our people. In keeping faith with our Ancestors, we shall preserve our Heritage while adapting to the present world around us.

We have created this document as an act of inherent self-governance pursuant to the government-to-government relationship that was reaffirmed by the United States Congress on September 21, 1994 in Public Law 103-324 "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act." The nine (9) Bands of Odawak who historically lived within and near Waganakising are hereby included within the term "Little Traverse Bay Bands of Odawa Indians." The nine Bands are: 1) North Shore (Naubinway west to Escanaba); 2) the Beaver Islands; 3) Cross Village; 4) Burt Lake; 5) Good Hart (Middle Village); 6) Harbor Springs; 7) Petoskey; 8) Bay Shore; and 9) Charlevoix. The Bands are a single governmental body under this one Constitution. This Constitution shall supersede all previous constitutions and bylaws of the Little Traverse Bay Bands of Odawa Indians.

ARTICLE I. RESERVED RIGHTS OF TRIBAL MEMBERSHIP

A. Purpose

This Article enumerates certain rights as reserved by the Tribal membership. All governing authority rests with the Tribal membership. Through this Constitution, the Tribal membership delegates specific powers and functions to the branches of government, which can only be added to or removed by amendments to this Constitution. All powers and functions not so delegated remain with the Tribal membership. To assure that the power of our government rests with the membership of the Little Traverse Bay Bands of Odawa Indians, the membership reserves the right to hold at a minimum an annual meeting and such other meetings as the membership deems necessary, as provided for in this Article.

B. Directive Principles

In consideration of the next seven generations, each generation of the Tribal Membership to assert tribal sovereignty directs the Legislative, Executive and Judicial branches of government to:

1. Promote the preservation and revitalization of Anishinaabemowin and Anishinaabe culture;

2. Promote with special care the health, educational and economic interests of all the people, especially our children and elders, and shall protect them from social injustice and all forms of exploitation;

3. Regard the raising of the level of nutrition and the standard of living of our people, and the improvement of public health as among their primary duties;

4. Establish and maintain within the limits of their economic capacity and development, effective provision for securing the right to work, to education and assistance in cases of unemployment, old age, sickness and disablement, and in other cases of need; and

5. Assure and promote that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that youth and elders are protected against exploitation.

C. Annual Meeting

The Tribal Membership, through this document, directs the Executive Branch of the Little Traverse Bay Bands of Odawa Indians to be responsible to call an annual meeting of the Tribal Membership each spring. This meeting is to be held within the boundaries of our reservation as defined in by the Ottawa-Chippewa Treaty of Detroit of 1855, 11 Stat. 621, in Article I, paragraphs third and fourth of the Treaty. Notice shall be provided to all adult tribal members by first class mail or an equivalent method at least thirty (30) days prior to the annual meeting.

D. Quorum

Twenty percent (20%) of all registered voters shall constitute a quorum, as certified by the Election Board. A quorum shall be necessary to transact official business except as noted in sections E(1) and E(2) of this Article. A quorum is not necessary for general information and discussion.

E. Conduct of Tribal Membership Meetings

All Tribal Membership meetings shall be open to all Tribal members so long as they maintain acceptable social order and do not interfere with the conducting of the meeting. The Election Board shall be responsible for developing acceptable rules of conduct at the first Tribal Membership meeting. Subsequent meetings will be conducted in accordance with rules of conduct adopted by the Tribal Membership at a membership meeting.

1. The Tribal member who will preside over the first meeting shall be elected at the meeting from nominees from the Tribal Membership in accordance with the rules of conduct and procedure developed by the Election Board. A quorum will not be necessary to conduct this election.

2. Thereafter, the Tribal Membership shall elect a Tribal member to preside over the next annual or special meeting of the Tribal Membership prior to adjournment of the Tribal Membership meeting. A quorum will not be necessary to conduct this election. Provided, that if the person elected is not available or present at the following meeting, then a member shall be elected to preside over the meeting under the same procedures as for the first meeting.

F. Special Meetings of the Tribal Membership

Special Meetings of the Tribal Membership shall be called by the Executive Branch upon receipt from the Election Board of a certified petition signed by no less than twenty percent (20%) of the registered voters, or upon written request of a majority of the Tribal Council. Notice shall be provided to all adult Tribal members by first class mail or equivalent method sent to their last known address at least two (2) weeks prior to all Special Meetings of the Tribal Membership.

G. Right to Legal Representation

The Tribal Membership, by majority vote at a meeting at which a quorum is present, may employ an attorney to represent the interests of the Tribal Membership as a whole when an issue exists as to whether Tribal government has functioned in conformity with Tribal law. If the Tribal Membership's attorney substantially prevails on the merits of the claims filed against Tribal government, or if settlement occurs which accomplishes the same, the Tribal Council shall appropriate funds to pay attorney's fees and costs, as may be determined and ordered by the Tribal Judiciary.

H. Duties and Functions Reserved by the Tribal Membership

The Tribal Membership reserves the following specific duties and functions:

1. Receive and review the Annual Report from the Tribal Council Treasurer under Article VII(C)(3)(a) of this Constitution;

2. Approve sales of Tribal lands under Article VII (D)(13) of this Constitution;

3. Make recommendations to the Tribal Council for future Tribal enterprises, services and policies;

4. Initiate a recall of a Tribal Council member, the Chairperson or Vice-Chairperson under Article XIII (A); and

5. Petition for a special election for constitutional amendments under Article XVII.

ARTICLE II. INDIVIDUAL RIGHTS

The Little Traverse Bay Bands of Odawa Indians, in exercising powers of self governance, shall NOT:

1. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for redress of grievances;

2. Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, or issue warrants, unless based upon probable cause, and supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

3. Subject any person for the same offense to be twice put in jeopardy;

4. Compel any person in any criminal case to be a witness against him/herself;

5. Take any private property for a public use without just compensation;

6. Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against her/him, to have compulsory process for obtaining witnesses in his/her favor, and at his/her own expense to have the assistance of counsel for his/her defense

and to have these rights explained at the time of arrest;

7. Require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

8. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

9. Pass any bill of attainder or ex post facto law; or

10. Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE III. DEFINITIONS

For purposes of this Constitution, the following definitions apply:

A. Adult. An "adult" is a person eighteen (18) years of age or older.

B. Anishinaabemowin. The traditional language of the Little Traverse Bay Bands of Odawa Indians.

C. Federal. The United States Federal government.

D. Felony. The term "felony" shall be defined by Tribal Council statute and shall not include any reasonable actions taken pursuant to or in furtherance of Tribal sovereignty or Treaty Rights.

E. Immediate Family. "Immediate family" means: wife, husband, son, daughter, mother, father, brother, sister, step-mother, step-father, step-brother, step-sister, father-in-law, mother-in-law, child and step-child, grandmother, grandfather, brother-in-law and sister-in-law.

F. Minor. A "minor" is a person under eighteen (18) years of age.

G. Odawa (singular, "Ottawa" in English), Odawak (plural). For purposes of this Constitution "Odawak" refers to all Indian people that are listed on the Durant Roll within the nine (9) bands listed in the Preamble of this Constitution and their descendants.

H. Reservation. Unless otherwise specified in this Constitution "Reservation" means all lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of the Interior.

ARTICLE IV. TERRITORY, JURISDICTION, LANGUAGE, & SERVICE AREA

A. Territory

The territory of the Little Traverse Bay Bands of Odawa Indians shall encompass all lands and waters within the Reservation as defined in Article III (H) and any other lands which are now and hereafter owned or acquired by the Little Traverse Bay Bands of Odawa Indians or held in trust for the Tribe by the United States.

B. Jurisdiction

The jurisdiction of the Little Traverse Bay Bands of Odawa Indians shall extend to all territory set forth in Section (A) of this Article and to any and all persons or activities therein based upon the inherent sovereign authority of the Little Traverse Bay Bands of Odawa Indians and Federal law. The jurisdiction includes but is not limited to air, water, surface, subsurface, natural and cultural resources, and any interests therein. Jurisdiction over members of the Little Traverse Bay Bands of Odawa Indians shall extend beyond the territory set out in Section (A) whenever they are acting pursuant to, or jurisdiction is created or affirmed by, either:

1. Rights reserved or created by treaty,

2. Little Traverse Bay Bands of Odawa Indians statute, ordinance, resolution, or other authorization,

3. Federal statute, regulation or other authorization pertaining to the Tribe or its members, or

4. Any compact, contract or other agreement entered into pursuant to applicable law pertaining to the Little Traverse Bay Bands of Odawa Indians or its members.

C. Language

No law shall be passed that precludes the use of Anishinaabemowin in the conduct of the Little Traverse Bay Bands of Odawa Indians' official business, or in the daily affairs of the Tribe and its members.

D. Service Area

For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the area of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs "third" and "fourth" of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near the Reservation. Services may be provided to members outside the named service area unless prohibited by Federal law or program regulations.

ARTICLE V. MEMBERSHIP

A. Requirements

1. Definitions:

a. For purposes of this section "Reservation" means the areas referenced in Public Law 103-324, 25 U.S.C. §1300k-2(b)(2)(A) as "the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat. 621."

b. "Durant Roll" means the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910, and as clarified by Durant's corresponding field notes.

2. March 31, 2003 Roll. All persons whose names appear on the Roll prepared by the Little Traverse Bay Bands of Odawa Indians and submitted to the Department of the Interior, Bureau of Indian Affairs, notice of receipt of which was published in the Federal Register on March 31, 2003, are members of the Little Traverse Bay Bands of Odawa Indians.

3. Eligibility. The following persons shall be eligible for membership in the Little Traverse Bay Bands of Odawa Indians:

a. All persons who are one fourth (1/4) or more North American Indian blood quantum, and can prove direct lineal descent from a person or persons identified in one or more of the sub-sections below:

i. All persons listed on the Durant Roll under the following Ogemuk (leaders or "chiefs") or areas of residency:

Nawwemaishcotay – Cross Village
Shawwawdayse – Charlevoix
Shawwawnegwnaybe – Bay Shore
Louis Micksawbay – Charlevoix
Awmegwawbay – Petoskey
Nawogemaw – Good Hart / Middle Village
Simon Kewaydezhick – Harbor Springs
Joseph Waybwaydum – Burt Lake
Daniel Nesawwawquot – Harbor Springs
Payzhickwaywedung – Beaver Island
Nawoquaygawbowe – Manistique
Kawgegaypenayse – North Shore

ii. All persons whose name appears on the Durant Roll who resided within the Reservation at the time the Durant Roll was compiled;

iii. All persons listed on any of the Annuity payrolls of Ottawa & Chippewa Indians of Michigan from 1836 to 1871 and referenced in the 1850 through the 1920 Federal Population Enumeration (Census Records) who resided within our Reservation boundaries at the time the payrolls were written.

b. All descendants of persons enrolled under subsection 2 or 3(a) who are at least one fourth (1/4) North American Indian blood quantum.

B. Adoption

1. Membership by Adoption into the Tribe.

a. Any person who can verify at least one fourth (1/4) North American Indian blood quantum may be adopted into the Little Traverse Bay Bands of Odawa Indians by a majority vote of the full Tribal Council, if that person can also demonstrate, by other means, substantial community ties to the Tribe, as defined by Tribal statute.

b. Adult persons who become members of the Little Traverse Bay Bands of Odawa Indians through the adoption procedure developed by the Tribal Council to implement this section shall thereupon enjoy and be entitled to the rights and privileges associated with membership in the Tribe except the elected positions of Tribal government.

2. Membership Rights of Children Who Have Been Adopted By Members of The Little Traverse Bay Bands of Odawa Indians. Indian minor children who are at least one fourth (1/4) North American Indian who have been legally adopted by members of the Little Traverse Bay Bands of Odawa Indians, in a Tribal Court or any other court of competent jurisdiction, are also eligible to be adopted by the Tribe. They shall thereupon enjoy and be entitled to the rights and privileges

associated with membership in the Little Traverse Bay Bands of Odawa Indians except the elected positions of Tribal government.

3. Membership Rights of Indian Children Who Have Been Legally Adopted BY Non-Member Indian or Non-Indian Families. Any Indian child eligible for membership pursuant to Section A(3) of this Article who is legally adopted in a Tribal Court or any other court of competent jurisdiction by a non-member Indian or non-Indian family shall be eligible for membership in the Little Traverse Bay Bands of Odawa Indians, notwithstanding such adoption.

C. Dual Membership Prohibition.

No person shall be a member of the Little Traverse Bay Bands of Odawa Indians if that person is enrolled in another federally recognized tribe. Any person enrolled in another federally recognized tribe shall be subject to disenrollment from the Little Traverse Bay Bands of Odawa Indians.

D. Relinquishment of Membership

1. Enrollment in any other federally recognized Tribe shall be deemed voluntary relinquishment of membership from the Little Traverse Bay Bands of Odawa Indians and such individual shall be subject to disenrollment.

2. Individual members may relinquish their Little Traverse Bay Bands of Odawa Indians membership, which shall be done in writing and presented to the Tribal Council according to procedures developed by the Tribal Council.

3. A Tribal Judicial review shall be required should a parent or legal guardian submit a voluntary relinquishment of Little Traverse Bay Bands of Odawa Indians membership for a minor or for a person deemed incompetent by the Tribal Court. Such relinquishment shall only become effective upon approval of the Tribal Court based on a finding that the relinquishment is in the best interests of the child or the person deemed incompetent.

E. Minor Re-Enrollment

Any minor whose membership has been relinquished by a parent(s) or legal guardian, shall be eligible for re-enrollment at any time after reaching the age of eighteen (18). A minor may be re-enrolled before reaching the age of eighteen (18) upon recommendation of the Tribal Court and approval of the Tribal Council.

F. Re-Enrollment

Once removed from the Tribal membership roll, an adult individual shall not be eligible for re-enrollment for a period of five (5) years.

G. Membership Roll

1. The Executive Branch shall maintain the official Tribal roll of all Tribal members.

2. Membership shall be final upon affirmative vote of a majority of the full Tribal Council, provided that the Tribal Council must accept or reject new membership applications within sixty (60) days of receipt of recommendations from appropriate staff and committees.

3. The Executive Branch shall prepare and submit an annual report to the Tribal Council on the past year's changes to the membership roll.

H. Disenrollment

1. No person on the March 31, 2003 roll may be involuntarily disenrolled unless they are shown to have knowingly presented falsified documents or become a member of another Federally recognized Tribe.

2. Other members may not be disenrolled unless the Tribal Council determines by an affirmative vote of at least seven (7) of the nine (9) members of the Tribal Council that such persons do not meet the eligibility requirements of this Article.

3. No enrolled Tribal member who meets the eligibility requirements in this Article shall be subject to disenrollment.

4. No person may be disenrolled unless they are first notified in writing of the reason(s) that their eligibility is in question, and given one hundred eighty (180) days after such notification to present documentation and arguments to the Tribal Council. Upon request of the individual or after one hundred eighty (180) days, the Tribal Council shall give such person a fair hearing before the Council. The Tribal Council shall give such person at least thirty (30) days written notice before the hearing on their case before the Tribal Council. Until disenrollment is finalized, the individual shall have all rights of a Tribal member including services and any monetary entitlements. The hearing shall be open unless the member in question requests that the hearing be held in closed session.

5. Right of Appeal.

a. Any person whose application for membership has been denied, or who has relinquished or been disenrolled, shall have a right of appeal to the Tribal Judiciary within one (1) year of such action.

b. Such appeal rights do not extend to any person whose petition for membership by adoption into the Little Traverse Bay Bands of Odawa Indians has been denied.

c. Nothing in this section is intended to prevent a person whose application has been denied from reapplying for membership at some future date.

I. Membership Statute

The Tribal Council shall have the power to enact laws not inconsistent with this Article to implement these provisions.

ARTICLE VI. ORGANIZATION OF THE GOVERNMENT

A. Purpose, Fundamental Rights

We, the Little Traverse Bay Bands of Odawa Indians, speak through this document to assert that we are a distinct nation of Anishinaabek of North America that possess the right to: self-determination; freely determine our political status; freely pursue our economic, social, religious and cultural development, and determine our membership, without external interference. These same rights and principles the Little Traverse Bay Bands of Odawa Indians acknowledge to be inherent among other peoples, nations and governments throughout the world. We recognize their sovereignty and pledge to maintain relations with those peoples, nations and governments who acknowledge those same fundamental human rights and principles, and who recognize the sovereignty of the Little Traverse Bay Bands of Odawa Indians.

B. Branches of Government

The government of the Little Traverse Bay Bands of Odawa Indians shall be composed of three (3) branches: Tribal Council (Legislative), Tribal Chairperson (Executive), and Tribal Court (Judicial).

C. Delegation of Authority

The Tribal membership, through this document, authorizes: the Tribal Council to be the Legislative body and to make laws and appropriate funds in accordance with Article VII; the Executive Branch to administer such funds, enforce this Constitution and laws passed thereunder, and implement policies and procedures enacted by the Tribal Council in accordance with Article VIII; and the Judicial Branch to interpret this Tribal Constitution and to apply the laws of the Little Traverse Bay Bands of Odawa Indians in accordance with Article IX.

D. Separation of Functions

No branch of the government shall exercise the powers, duties or functions delegated to another branch.

E. Supremacy Clause

This Constitution shall be the supreme law over all territory and persons subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians.

ARTICLE VII. TRIBAL COUNCIL

A. Composition of the Tribal Council

Legislative powers shall be vested in the Tribal Council. The Tribal Council shall be composed of nine (9) Tribal members elected in an open election by popular vote.

B. Tribal Council Officers

The officers of the Tribal Council shall be the Legislative Leader, Secretary and Treasurer, and shall be filled from among the Tribal Council members after each general election, by majority vote of the Tribal Council. No member may simultaneously serve as more than one officer. In the event of a vacancy in a Tribal Council office, the Tribal Council shall appoint a Tribal Council member to fill the vacated office until new officers are selected following the next general election.

C. Duties of Officers

1. The Legislative Leader shall:

a. Monitor all Tribal mandates and directives approved by the Tribal Council for compliance through the Executive Branch;

b. Make recommendations to the Tribal Council on the matter of laws, statutes, programs, or policies that would be of interest or benefit to the Little Traverse Bay Bands of Odawa Indians;

c. Acquire a surety bond, in an amount and with a surety company satisfactory to the Tribal Council;

d. Preside over meetings of the Tribal Council;

e. The Legislative Leader shall vote on all issues except in cases in which he or she would have a conflict of interest; and

f. Perform such other duties as required by the Tribal Council.

2. The Secretary shall:

a. At each Tribal Council meeting, submit the minutes of the previous meeting to the Tribal Council for approval;

b. Acquire a surety bond, in an amount and with a surety company satisfactory to the Tribal Council;

c. Post minutes approved by the Tribal Council in the Tribal administrative office within seven (7) days of approval;

d. Maintain and protect the Tribal Seal;

e. Preside over meetings of the Tribal Council in the absence of the Legislative Leader; and

f. Perform such other duties as required by the Tribal Council.

3. The Treasurer shall:

a. Submit an annual report, prepared by the Tribal accounting department, to the Tribal Membership at its annual meeting. This report shall include all funds received by the Little Traverse Bay Bands of Odawa Indians or through Tribal enterprises. This report shall also include all appropriations of operating funds and Tribal enterprises by department showing how the funds were spent and to include profit and loss statements where applicable;

b. Acquire a surety bond, in an amount and with a surety company

satisfactory to the Tribal Council;

c. Preside over meetings of the Tribal Council in the absence of the Legislative Leader and Secretary; and

d. Perform such other duties as required by the Tribal Council.

D. Powers of the Tribal Council

The Tribal Council shall have the power to:

1. Make laws not inconsistent with this Constitution, including statutes and resolutions necessary to exercise Tribal jurisdiction, including civil and criminal authority and the regulation of commerce, and send them to the Executive for signature. They shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

2. Approve or disapprove policies, resolutions and regulations presented from the Executive branch;

3. Provide by law for the jurisdiction of the Little Traverse Bay Bands of Odawa Indians over Indian Child Welfare matters and all other domestic relations matters;

4. Enact laws governing the issuance of the Little Traverse Bay Bands of Odawa Indians charters of incorporation for economic or other purposes, and to regulate the activities of these corporations;

5. Implement, by statute not inconsistent with this Constitution, the Little Traverse Bay Bands of Odawa Indians' inherent right to exclude person(s) or other parties from Tribal lands;

6. Adopt rules of conduct to govern all levels of Tribal government;

7. Shall establish rules and procedures to provide access for review by any Tribal member or his/her authorized representative, who is a Tribal member, of the records of the Little Traverse Bay Bands of Odawa Indians. Such review shall be conducted during normal office hours, in accordance with the rules and procedures established by the Tribal Council, and not inconsistent with any other provision of this Constitution. All Tribal records are subject to this review by the membership unless specifically excluded by this Constitution or applicable law;

8. Enact laws governing the encumbrance of Tribal lands or other intangible assets, and the encumbrance and disposition of non-real estate tangible assets;

9. Purchase, receive by gift, or otherwise acquire land, interests in land, personal property or other intangible assets which the Tribal Council may deem beneficial to the Little Traverse Bay Bands of Odawa Indians;

10. Request lands be placed in trust with the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians when the Tribal Council deems this beneficial to the Tribe;

11. Approve land use plans and zoning of lands subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians;

12. Approve leases for Tribally owned land and lands held in trust for the Little Traverse Bay Bands of Odawa Indians by the United States subject to the approval of the Secretary of the Interior if required by Federal law;

13. Approve all sales, or dispositions of Tribal lands, provided that such sale or disposition must also be approved by a majority vote by referendum, or by a quorum at an annual membership meeting;

14. Employ legal counsel;

15. Approve the filing of lawsuits in the name of the Tribe as proposed by the Executive, provided, the Tribal Council may approve the filing of a lawsuit in the name

of the Tribe without Executive concurrence by an affirmative vote of six (6) members of the Tribal Council;

16. Establish committees, commissions, and boards, and approve appointments as presented by the Executive. The Tribal Council shall develop laws setting out qualifications for appointees and ensuring that the Tribal membership is given reasonable notification of available positions;

17. Establish and maintain government offices for the Little Traverse Bay Bands of Odawa Indians;

18. Appropriate funds, and enact a budget formulation statute that allows for public input from the Tribal membership;

19. Raise revenue, including the power to enact laws to levy taxes and govern the collection of taxes and license fees;

20. Develop policies for receiving any grants, donations, or other funding from any person, corporation, municipality, government, or other entity, and the policy shall provide that such receipts are a matter of Tribal record;

21. May establish such lower courts as may be deemed necessary upon request from the Judiciary;

22. Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members;

23. Approve negotiations with any other governments, businesses or individuals by a majority vote of the Tribal Council; and

24. To provide by statute for the management of any and all economic affairs and enterprises of the Little Traverse Bay Bands of Odawa Indians that will further the

economic development of the Tribe or its members. Such statutes will delegate management responsibilities to Tribally chartered corporations or other subordinate Tribal entities, or where appropriate, to the Executive Branch.

E. Reserved

The Tribal Council shall not exercise any powers not listed in this Constitution unless an amendment of the Constitution has been approved pursuant to Article XVII.

F. Compensation

All members of the Tribal Council shall receive reasonable compensation governed by statute. No increase or decrease in compensation shall take effect until after the next general election.

G. Term of Office

The term of office shall be four (4) years except as provided in Article XII for the first election under this Constitution. The term shall extend from their oath of office until a successor is sworn in.

H. Qualifications

1. Members of the Tribal Council shall be Little Traverse Bands of Odawa Indians members at least eighteen (18) years of age.

2. No person shall be sworn in as a Tribal Council member if he or she is employed by the Little Traverse Bay Bands of Odawa Indians Tribal government, as described in Article XV (A)(2).

3. No person shall serve as a Tribal Council member within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

I. Budget

The Tribal Council shall enact an annual budget for the upcoming fiscal year. The budget shall identify all funding sources, appropriations of operating funds and Tribal enterprises. The Budget shall be a Tribal document, dispersed to Tribal members at the annual meeting of the Tribal Membership, or made available by mail as requested by Tribal members.

J. Meetings

Meetings of the Tribal Council are as follows:

1. Presiding Over Meetings. The Legislative Leader, or person designated under this Constitution to preside in his/her absence, shall preside over all meetings of the Tribal Council.

2. Quorum. Five (5) Tribal Council members shall constitute a quorum. A quorum shall be necessary to transact official business of the Tribal Council.

3. No Voting by Proxy. All votes must be cast only by those actually present at the meeting during which the vote was taken.

4. Regular Meetings. The Tribal Council shall hold regular meetings at least once a month at the Tribal government offices. Official minutes shall be taken and recorded, and shall be approved within sixty (60) days of the meeting.

5. Special Meetings. Special meetings may be called from time to time by the Legislative Leader, by a majority of the Tribal Council, or by a request from the Executive. Notice of such special meetings shall be given to all members of the Tribal Council at least five (5) days in advance of such meetings, and shall state the purpose or purposes of the meeting. Special meetings shall be restricted to the purpose or purposes for which they are called.

6. Emergency Meetings. When immediate official action of the Tribal Council is necessary to preserve or promote essential interests of the Little Traverse Bay Bands of

Odawa Indians, the Legislative Leader or a three fourths (3/4) majority of the Tribal Council may call an emergency meeting. Advance written or verbal notice of such meeting shall be given to each Council member to the greatest extent feasible. Emergency meetings shall be restricted to the urgent subject matter necessitating the meeting. Emergency meetings may be conducted by phone conference call or with the aid of such other communication technology as may be available and in common use. A statement shall be put in the minutes of the next scheduled meeting indicating the date and time that the emergency meeting was held. The Tribal Council shall keep records of emergency meetings at the Tribal administrative offices which shall include the reason for the meeting and the action taken, which records shall be available to the Tribal membership to the same extent as regular meeting minutes, and the same rules regarding closed sessions and closed sessions minutes apply.

7. Phone Polls. Use of phone polls shall be governed by the rules and procedures of the Tribal Council.

8. Open Meetings. The Tribal Council shall adopt an Open Meetings Statute to ensure that all meetings of the Tribal Council called pursuant to this Article, except phone conference calls and closed sessions allowed under subsections J(6) and J(9) of this Article, are open to Tribal members and Tribal members shall have a reasonable opportunity to be heard, under such rules as the Council may prescribe in the Statute.

9. Closed Sessions.

a. The Tribal Council may meet in closed session only for reasons clearly expressed in the Open Meetings Statute. Closed sessions shall be limited to personnel, litigation, confidential business or legal matters, or other matters that raise significant privacy or confidentiality concerns.

b. The Tribal Council shall develop a disclosure of closed session minutes policy.

ARTICLE VIII. EXECUTIVE

A. Composition of the Executive Branch

The Executive power of the Little Traverse Bay Bands of Odawa Indians shall be vested in the Tribal Chairperson and the Vice-Chairperson.

B. Location of Offices

The Executive offices for the Tribal Chairperson and Vice-chairperson shall be maintained in the Tribal governmental offices.

C. Powers and Duties of the Chairperson

The Chairperson shall have the following powers and duties:

1. To represent the Little Traverse Bay Bands of Odawa Indians in an ambassadorial capacity;

2. To execute and administer the laws and resolutions of the Little Traverse Bay Bands of Odawa Indians;

3. To receive, prepare and submit nominations to the Tribal Council for consideration for the appointed positions set out in this Constitution or future Tribal statute;

4. To make recommendations to the Tribal Council on matters of interest or benefit to the Little Traverse Bay Bands of Odawa Indians;

5. To oversee all Tribal Executive departments, boards, commissions and committees created by the Tribal Council;

6. Shall submit monthly written reports of his/her oversight responsibilities of Tribal operations to the Tribal Council; and

7. Submit a proposed budget for the next fiscal year to the Tribal Council.

D. Powers and Duties of the Vice-Chairperson

The Vice-Chairperson shall:

1. Perform the duties of the Chairperson in his/her absence, and assume the duties and the powers of the Chairperson if the position of the Chairperson becomes vacant;

2. Assume responsibility for those administrative functions delegated to her/him by the Chairperson; and

3. Perform such other duties as delegated by the Chairperson.

E. Qualifications

1. The Chairperson and Vice-Chairperson shall be Tribal members at least eighteen (18) years of age. No person shall serve as Chairperson or Vice-Chairperson within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

2. The Chairperson and Vice-Chairperson will reside within the Reservation of the Little Traverse Bay Bands of Odawa Indians no later than ninety (90) days after the general election for the term of their office.

F. No Reserved Powers

The Chairperson and Vice-Chairperson shall not exercise any powers not listed in this Constitution unless an amendment granting them additional powers has been approved pursuant to Article XVII.

G. Compensation

The Chairperson and Vice-Chairperson shall receive reasonable compensation as governed by statute. No increase or decrease in compensation shall take effect until after the next

general election.

H. Terms of Office

The Chairperson and Vice-Chairperson shall serve four (4) year terms. The terms shall extend from their oath of office until a successor is sworn in.

ARTICLE IX. JUDICIAL

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 (referred to as the "Tribal Court"), an appellate court (referred to as the "Tribal Appellate Court") and such lower courts as the Tribal Council may establish upon written recommendation from the Tribal Judiciary.

B. Composition of the Tribal Court System

1. Tribal Court. The Tribal Court shall consist of one (1) judge who shall be the Chief Judge, and one (1) or more associate judges who shall meet as often as circumstances require. The Chief Judge shall serve as head of the Tribal Judiciary.

2. Tribal Appellate Court. The Tribal Appellate Court shall consist of one (1) Chief Justice and two (2) Associate Justices who shall meet as often as circumstances require. At least one (1) of the three (3) justices shall be an attorney licensed to practice before the courts of a state in the United States and at least one (1) of the justices shall be an enrolled Tribal member who is over fifty five (55) years of age.

3. Other lower courts. Composition of the Tribal Court system may also include such lower courts as are in the future established under Section (A) of this Article.

C. Jurisdiction

1. Inherent Sovereignty. The judicial power of the Tribal Court shall extend to all civil and criminal cases arising under this Tribal Constitution, statutes, regulations or judicial decisions of the Little Traverse Bay Bands of Odawa Indians. This jurisdiction is based on the Tribe's inherent sovereignty, traditional custom, and Federal law.

2. Power of Judicial Review. The Tribal Court shall have the power to interpret the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians.

3. Court of First Instance. Any such case or controversy arising within the jurisdiction of the Tribal Courts of the Little Traverse Bay Bands of Odawa Indians shall be filed in the Tribal Court before it is filed in any other court.

4. Sovereign Immunity Not Waived. This jurisdiction shall not be construed to be a waiver of the sovereign immunity of the Little Traverse Bay Bands of Odawa Indians.

5. Appellate Review. The Tribal Appellate Court shall have jurisdiction over any case on appeal from the Tribal Court. Appeals decisions shall be decided by the full Appellate Court.

6. Right to Appellate Review. Any party to a Tribal Court action may file an appeal from a final judgment, order or decision of the Tribal Court to the Tribal Appellate Court, based on alleged error of law, procedural violation of this Constitution, laws or regulations enacted by the Tribal Council, or Court Rules, or clear factual error. Appellate procedures shall be set out in the Tribal Court Rules.

7. Finality of Appellate Review. Rulings of the Tribal Appellate Court are final and binding and cannot be appealed to the Tribal Council, Tribal Membership or any other jurisdiction.

D. Judicial Appointments

1. Appointment to the Tribal Court. The Judges of the Tribal Court and such lower courts as established under Section (A) of this Article shall be appointed by an affirmative vote of six (6) of the nine (9) members of the Tribal Council. Initial appointments shall take place within one hundred twenty (120) days of the swearing in of the first Tribal Council elected under this Constitution.

2. Appointment to the Tribal Appellate Court. Each justice of the Tribal Appellate Court shall be appointed by an affirmative vote of six (6) of the nine (9) members of the Tribal Council.

E. Eligibility for Appointment and Service

1. Tribal Court. A person may be eligible to serve as a Tribal Court Chief Judge or Associate Judge only if he/she**:**

a. Has attained the age of thirty (30) years;

b. Is at least one fourth (1/4) North American Indian;

c. Is not a Tribal Council member, or the Chairperson or Vice-Chairperson; and

d. No person shall serve as Chief Judge or Associate Judge within ten (10) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

2. Tribal Appellate Court. A person may be eligible to serve as the Chief Justice of the Tribal Appellate Court or as an Associate Justice only if he/she:

a. Has attained the age of thirty (30) years;

b. Is at least one fourth (1/4) North American Indian, other than the Justice who is required to be an attorney, where being Indian is preferred but not mandatory;

c. Is not a Tribal Council member or the Chairperson or Vice-Chairperson; and

d. No person shall serve as an Appellate Court Justice within ten (10) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

F. Terms of Office

1. Tribal Court Term of Office. Judges of the Tribal Court shall serve for terms of four (4) years and these terms will last until their replacement is sworn in. There shall be no limitation on the number of terms a judge may serve. The initial appointment of the Chief Judge shall be a four (4) year term, and the Associate Judge(s) shall be a two (2) year term, in order to implement staggered terms of service. All terms for judges thereafter, including additional associate judges, shall be four (4) years.

2. Tribal Appellate Court Term of Office. Justices of the Tribal Appellate Court shall serve for terms of six (6) years. There shall be no limitation on the number of terms a justice may serve. In order to implement staggered terms of service, the initial appointment of one (1) justice shall be for a two (2) year term. The initial appointment of one (1) justice shall be for a four (4) year term. The initial appointment of one (1) justice shall be for a six (6) year term. All subsequent appointments shall be for six (6) year terms.

3. Chief Justice. The justices of the Tribal Appellate Court shall appoint from among themselves one of the justices to serve as Chief Justice for a two (2) year term. There shall be no limit on the number of terms a Chief Justice may serve.

G. Compensation

The Tribal Council shall have the power and responsibility to establish reasonable levels of compensation as governed by statute for the Judges and Justices.

H. Judicial Independence

1. Independent Branch of Government. The Judicial Branch shall be independent from the Legislative and Executive branches of the Tribal government and no person exercising the powers of any of the other two (2) branches of government shall exercise powers properly belonging to the Judicial Branch of Tribal government.

2. Funding Mandate. The Judicial Branch shall prepare and present an annual budget directly to the Tribal Council for funding. The proposed budget may include funding for representation of indigent defendants. Funding for the Judiciary shall be based on its need and status as a branch of government.

3. Court Administration. The Tribal Judiciary shall employ an administrator of the courts and other assistants as may be necessary to aid in the administration of the courts of the Little Traverse Bay Bands of Odawa Indians. The administrator shall perform administrative duties assigned by the Judiciary.

I. Practice and Procedure

The Tribal Judiciary shall establish the practice and procedure in all courts of the Little Traverse Bay Bands of Odawa Indians, including qualifications to practice before the courts of the Tribe, provided that such procedural rules are consistent with this Constitution and the substantive laws of the Tribe.

J. Conflict of Interest

1. Recusal mandated. Any Judge or Justice with a direct personal or financial interest in any matter before the Judiciary shall recuse. Failure to recuse constitutes cause for removal in accordance with Article XIII (B).

2. Tribal Court. If the Chief Judge recuses, one of the associate judges shall hear the case. If an associate judge recuses, the Chief Judge or another associate judge shall hear the case. If all Tribal Court judges recuse, the judges of the Tribal Court shall appoint a

judge from another Tribal court to serve as temporary associate Tribal Court judge to hear the particular case. In the alternative the Tribal Court may request the Tribal Council to make a special appointment of a judge to hear the particular case. Such special appointees need not meet the requirements specified in section (E) of this Article but must be qualified and capable to preside over the particular case.

3. Tribal Appellate Court. If an Appellate Court justice recuses, the Tribal Appellate Court shall appoint a judge from another Tribal appellate court to serve on the Tribal Appellate Court for the particular case. In the alternative the Tribal Appellate Court may request the Tribal Council to make a special appointment of a judge to serve on the Tribal Appellate Court for the particular case. Such special appointees need not meet the requirements specified in section (E) of this Article but must be qualified and capable to participate in the review and decision in the particular case.

ARTICLE X. TRIBAL PROSECUTOR

A. Power and Authority of Tribal Prosecutor

In any and all child welfare cases, criminal proceedings or other violations of Tribal law, the Tribal Prosecutor shall have the power and authority, on behalf of the Tribal membership as a whole, to sign, file and present any and all complaints, subpoenas, affidavits, motions, process and papers of any kind and to appear before all courts, commissions or tribunals in any such proceeding within the Tribe's jurisdiction.

B. Appointment of Prosecutor

1. The Tribal Prosecutor shall be appointed by an affirmative vote of six (6) of the nine (9) members of the Tribal Council.

2. Assistant prosecutors may be appointed by an affirmative vote of six (6) of the nine (9) members of the Tribal Council.

C. Eligibility for Appointment and Service

1. A person may be eligible to serve as a Tribal Prosecutor only if the person:

a. is not a Tribal Council member or the Chairperson or Vice-Chairperson**;**

b. is not a judge or justice of the Tribal Court or the Tribal Appellate Court; and

c. is an attorney licensed to practice in the Tribal Court and courts of a state in the United States.

2. It is preferred, but not mandatory, that the prosecutor be at least one fourth (1/4) North American Indian.

D. Term of Office

The Tribal Prosecutor shall serve for terms of three (3) years without limitation on reappointment. Assistant prosecutors, if any, shall serve for terms of two (2) years without limitation on reappointment.

E. Compensation

The Tribal Council shall have the power and responsibility to establish reasonable levels of compensation for the Prosecutor(s).

F. Independent Function

1. The Tribal Council shall enact such laws as it deems necessary to protect the office from inappropriate influence, and to ensure that the discretionary decision-making authority of the office remains unimpaired.

2. The Prosecutor shall have the authority to hire administrative staff as needed to fulfill the duties of this office subject to budget approval of the Tribal Council.

G. Funding Mandate.

The Prosecutor shall prepare and present an annual budget directly to the Tribal Council for funding. Funding for the Prosecutor shall be based on the need to fulfill the duties of this office.

H. Removal

The Tribal Prosecutor and assistant prosecutors may be removed in accordance with Article XIII (C).

ARTICLE XI. ELECTION BOARD

A. Election Board

The Election Board is hereby created by this Constitution as an independent entity. The Election Board shall conduct all general and special elections. The Election Board shall adopt rules and regulations governing elections, including the number of signatures required for candidacy petitions. These rules may be amended as needed. The Election Board shall have the authority to employ their own staff to fulfill their duties under this Constitution.

B. Appointments and Term

Five (5) people will be appointed to the Election Board by the Tribal Council. To be eligible for appointment a person must be a Tribal member who is at least eighteen (18) years of age. After the first Election, all Election Board members must be registered voters. Election Board members shall serve for four (4) year terms. The first appointments under this Constitution shall be two members for two (2) years and three (3) members for four (4) years to provide for staggered terms. The first Election Board shall be appointed by the Tribal Council serving under the interim Constitution.

C. Compensation

The Tribal Council shall have the power to establish the compensation for the Election Board. No increase or decrease in compensation shall take effect until after the next general

election.

D. Funding Mandate

The Election Board shall prepare and present an annual budget directly to the Tribal Council for funding. Funding for the Election Board shall be based on the need to fulfill its duties.

ARTICLE XII. ELECTIONS

A. General Elections

The members of the Tribal Council, Chairperson and Vice-Chairperson shall be elected at large by popular vote. A Tribal member shall only be a candidate for one position in a particular election, and a person shall hold no more than one elected position at a time. After the adoption of this Constitution, a general election shall provide for staggered terms as follows: The Chairperson and the Vice-Chairperson and the five (5) Council candidates with the highest number of votes shall be elected for four (4) year terms and the four (4) Council candidates with the next highest number of votes shall be elected for two (2) year terms. Thereafter, the general elections will be held in June of odd numbered years and all subsequent terms shall be four (4) years.

B. Primary Elections

1. A Chairperson and Vice-chairperson team shall file a joint candidacy petition for election. If more than two (2) candidate teams successfully petition to run for Chairperson and Vice-Chairperson, a primary election shall be conducted to reduce the number of candidate teams in the general election to two (2).

2. In any election in which more than two (2) candidates per open seat on the Tribal Council successfully submit candidacy petitions for office, a primary election shall be conducted to reduce the number of candidates to two (2) per open seat.

C. Special Elections

Special Elections shall be called by the Election Board when required under this Constitution or appropriate laws of the Little Traverse Bay Bands of Odawa Indians.

D. Registration and Ballots

1. The Election Board shall require members of legal voting age to register to be entitled to vote. The list of the names and addresses of all registered voters shall be a public document.

2. All members of the Little Traverse Bay Bands of Odawa Indians registered to vote at least ninety (90) days prior to an election may vote in general and special elections.

3. Voting in Tribal elections shall be by secret ballot mailed to all registered voters. Ballots must be mailed at least thirty (30) days prior to an election by first class mail or equivalent method to the last known address of each registered voter.

E. Certification of Election Results

The Election Board shall post non-certified election results within three (3) business days in the Tribal offices, and in the next issue of the Tribal newsletter. The election shall be certified and the results posted by the Election Board ten (10) business days after the election if there are no unresolved challenges pending.

F. Challenges to Election Results

Any registered voter of the Little Traverse Bay Bands of Odawa Indians may challenge for cause the results of any election by filing a written challenge with the Tribal Court within ten (10) days after the election. The Tribal Court shall act on a challenge to any election within twenty (20) days of receiving the challenge in Tribal Court.

G. Oath of Office

The Tribal Court shall administer the oath for the offices of Chairperson, Vice-chairperson and Tribal Council at the next regularly scheduled Tribal Council meeting at least thirty (30) days following the certification of election results.

H. Election Application

The Election Board will be responsible for developing the applications and candidacy petitions for the following positions: Chairperson, Vice-Chairperson and Tribal Council. The application must be completed by each candidate and submitted with their candidacy petition, and shall be mailed to all registered voters. The application may include such personal information as age, education, experience and residency.

I. Nepotism

Immediate family members shall not serve on the Tribal Council or as Chairperson or as Vice-Chairperson at the same time. In the event that two or more immediate family members are elected, they may designate in writing which one will serve. If no such designation is made, only the family member with the highest number of votes shall serve. In case of a tie, and no designation being made, a run-off election shall be conducted.

ARTICLE XIII. RECALL, REMOVAL, AND VACANCIES

A. Recall

1. The Chairperson, Vice-Chairperson or Tribal Council Members may be subject to recall at any time under the following procedure:

a. A recall petition signed by a number of registered voters equaling twenty percent (20%) of the registered voters who voted in the last general election is presented to the Election Board. All petitions must be on forms that are approved by the Election Board.

b. Within ten (10) business days of receipt of the petition, the Election Board shall either certify the validity of the petition and signatures or return it to the

member who submitted it with a written explanation of the defect.

c. A recall election shall be scheduled by the Election Board within ninety (90) days upon verification of the petition and its signatures.

d. The elected official shall be recalled upon a majority vote if at least thirty percent (30%) of the registered voters vote in the recall election.

e. To provide for continuity of governance no more than four (4) Tribal Council members shall be subject to a recall election at any one time.

2. Each elected official may be subject to no more than one (1) recall election per calendar year.

B. Removal of a Tribal Court Judge

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

a. Unethical conduct, as defined by the Little Traverse Bay Bands of Odawa Indians Code of Conduct adopted by the Tribal Council or by the Tribal Court;

b. Physical or mental disability which prevents the performance of judicial duties;

c. Persistent failure to perform duties in a timely manner;

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

e. Ineligibility, under Article IX, to serve as a member of the Tribal Judiciary; or

f. Conviction of a felony while serving as Judge or Justice by any court of competent jurisdiction.

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

a. If a Judge or Justice believes that grounds exist for removal of another Judge or Justice, they 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 no 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. The member shall have the right to subpoena witnesses and be represented by an attorney.

b. If a Little Traverse Bay Bands of Odawa Indians member believes that grounds exist for removal of a Judge or Justice, they shall state the charges in writing to the Court Administrator 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 Article. This hearing shall be held as soon as practicable, but shall not be held more than sixty (60) days following the receipt of written charges.

C. Removal of Prosecutor

A prosecutor or assistant prosecutor may only be removed by a vote of six (6) of the nine (9) members of the Tribal Council, only for one or more of the following reasons:

a. Unethical conduct, as defined by the Little Traverse Bay Bands of Odawa Indians' Code of Conduct adopted by the Tribal Council or by the Tribal Court;

b. Physical or mental disability which prevents the performance of

prosecutorial duties;

c. Persistent failure to perform duties in a timely manner;

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

e. Ineligibility under Article X, to serve as a Tribal Prosecutor, including the revocation of his/her license to practice law;

f. Conviction of a felony while serving as Prosecutor by any court of competent jurisdiction.

D. Removal of Members of the Election Board

Upon presentation of a petition signed by at least one hundred (100) members alleging neglect of duties or intentional wrongdoing, and a hearing where the accused is afforded proper due process, the Judiciary may remove Election Board members for good cause.

E. Other Elected or Appointed Officials

Any future elected or appointed officials not listed in this Constitution shall be subject to removal for neglect of duties or intentional wrongdoing in accordance with a Tribal Statute passed for that purpose.

F. Vacancies in the Tribal Council

When a vacancy occurs in the Tribal Council, the Tribal Council shall appoint a Tribal member who meets all of the qualifications in Article VII (H) to fill the balance of the unexpired term.

G. Vacancies in the Executive

1. If the Chairperson's seat is vacant, the Vice-chairperson shall assume the position

of Chairperson. When there is a vacancy in the Vice-chairperson position, the Chairperson will appoint a new Vice-chairperson subject to ratification by a majority vote of the full Tribal Council.

2. In the event of a simultaneous vacancy in both the Chairperson and Vice-chairperson seats, the Legislative Leader shall serve as Chairperson until a special election can be conducted to fill the remaining terms. While acting as Chairperson, the Legislative Leader will not be considered a Tribal Council member. After a Chairperson is elected and sworn in, the Legislative Leader will resume his/her position as a Tribal Council member for the remainder of his/her term.

H. Vacancies in the Judiciary

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

I. Vacancies in the Election Board

Any vacancy in the Election Board shall be filled by appointment by the Tribal Council for the balance of the unexpired term.

J. Terms for Replacements

Persons elected or appointed to fill a vacancy shall serve out the term of the person whom they are replacing unless otherwise specified in this Article.

K. Vacancies for Other Elected or Appointed Positions

Vacancies for future elected or appointed officials not enumerated in this Constitution shall be filled in accordance with applicable Tribal statutes.

ARTICLE XIV. INITIATIVE AND REFERENDUM

A. Initiative

1. Initiative is the power of the Tribal members to propose laws and to enact or reject them in an election. The members of the Little Traverse Bay Bands of Odawa Indians shall have the power to adopt, by initiative, any statute, and the power to repeal or amend any statute in accordance with the provisions of this Article; provided that statutes addressing appropriations for Tribal institutions or statutes establishing the Tribal budget shall be exempt from the initiative process.

2. The procedure for initiative shall be as follows:

a. The proponents of an initiative shall submit it to the Election Board for examination as to technical sufficiency and to insure clarity before it is circulated. The Election Board shall deliver its written comments to the proponents within thirty (30) days.

b. Initiative petitions must be signed by a number of registered voters equaling twenty percent (20%) of the registered voters who voted in the last general election. After the signatures have been verified by the Election Board, the Election Board shall schedule an election in accordance with subsection (A)(2)(c) of this Article.

c. If a general election is scheduled to be held less than twelve (12) months from the date the Election Board has verified the petition, the initiative will be scheduled for a vote at that general election. If the next general election is scheduled for a time more than twelve (12) months after verification, a special election shall be scheduled.

d. An initiative proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians who are registered on the day of submission of the petition cast ballots in said special election. If less than twenty percent (20%) of the registered voters of the Tribe cast ballots in said election, the initiative shall be deemed to be defeated.

e. If an initiative is defeated in an election, the same matter cannot again be the subject of an initiative election for two (2) years.

B. Referendum

1. The Tribal Council may decide by an affirmative vote of six (6) Council members to submit any proposed or any enacted statute to a vote of registered Tribal voters at a referendum election.

2. The procedure for a referendum election shall be as follows:

a. Referendum elections shall be held no sooner than forty five (45) days and no later than ninety (90) days from the date the proposed or existing statute is referred to the Election Board. The date of the referendum election shall be set by the Election Board.

b. A referendum proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians who were registered on the day it was referred by the Tribal Council to the Election Board cast ballots in said special election. If less than twenty percent (20%) of the registered voters of the Tribe cast ballots in said election, the referendum shall be deemed to be defeated.

C. Initiative or Referendum Effective Date

Any statute enacted by initiative or referendum pursuant to the provisions of this Article shall take effect ten (10) days after certification of the election, unless otherwise provided in the initiative or referendum proposal adopted. No law adopted by the membership of the Little Traverse Bay Bands of Odawa Indians under the initiative or referendum provisions shall be amended or repealed except by a vote of the electors, unless otherwise provided in the initiative or referendum proposal or found to be unconstitutional by the Tribal Judiciary.

ARTICLE XV. CONFLICT OF INTEREST

A. Personal Financial Interest

1. In carrying out the duties of Tribal office, no Tribal Official, elected or appointed, shall make or participate in making decisions which involve a personal financial interest other than an interest held in common by all Tribal members.

2. Tribal members serving on Tribal Council, or the Tribal Chairperson or Vice-chairperson:

a. may not be employed under the Tribal Governmental Administration; and

b. may not be a paid consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for another party in that party's business dealings with the Tribe, while serving as a Tribal Council member, or as Chairperson or Vice-Chairperson, or within one (1) year of serving.

3. Tribal Council members, the Tribal Chairperson and Vice-chairperson may work in other Tribal enterprises but shall not have a vote on any issue relating to that enterprise. However, they may not hold more than one full time paid position even if they decline pay for one of the positions.

4. Within six (6) months from the date of the swearing in of the first Tribal Council elected under this Constitution, the Tribal Council shall adopt a Tribal Council Code of Conduct, which may be amended by future Tribal Councils.

B. Financial Disclosure

The Tribal Council shall enact a statute requiring financial disclosure statements of candidates, and elected or appointed governmental officials.

ARTICLE XVI. TRIBAL RECORDS

All official Tribal records are the exclusive property of the Little Traverse Bay Bands of

Odawa Indians and shall be transferred by the Tribal Council, Executive, Judiciary, Election Board, Prosecutor and members of any subordinate entities leaving office to their successors in office.

ARTICLE XVII. AMENDMENTS

A. This Constitution may be amended by a two-thirds (2/3) majority vote of the qualified voters of the Little Traverse Bay Bands of Odawa Indians voting in an election called for by action of the Tribal Council or Tribal Membership. A petition for a constitutional amendment shall be signed by no less than twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians as certified by the Election Board. At least thirty percent (30%) of those entitled to vote must cast a ballot in the election or the amendment shall fail; such amendments shall become effective upon certification of the election results by the Election Board.

B. Provided, if Federal law so requires at the time an amendment is proposed, then the Tribe will be subject to and the process will proceed in accordance with applicable Federal law and regulation, including 25 CFR part 82, or such successor regulations as may be in effect.

ARTICLE XVIII. SOVEREIGN IMMUNITY

A. Tribal Immunity From Suit

The Little Traverse Bay Bands of Odawa Indians, including all subordinate entities, shall be immune from suit except to the extent that the Tribal Council clearly and expressly waives its sovereign immunity, and officials and employees of the Tribe acting within the scope of their duties or authority shall be immune from suit.

B. Suit Against Officials and Employees

Officials and employees of the Little Traverse Bay Bands of Odawa Indians who act beyond the scope of their duties and authority shall be subject to suit in Tribal Court for purposes of enforcing rights and duties established by this Constitution or other applicable laws.

ARTICLE XIX. RIGHTS OF THE TRIBE AND ITS MEMBERS

Nothing in this Constitution shall be construed as restricting any Treaty Rights or any other rights of the Little Traverse Bay Bands of Odawa Indians and its members.

ARTICLE XX. ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Little Traverse Bay Bands of Odawa Indians voting at a special election called for such purposes by the Secretary of the Interior or his authorized representative, in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for approval, and shall be effective from the date of such Secretarial approval. The interim Constitution shall remain in effect until the swearing in of the elected officials under this Constitution.

ARTICLE XXI. PRIOR ACTIONS

1. All actions of the Little Traverse Bay Bands of Odawa Indians taken before the effective date of this Constitution shall remain in full force and effect to the extent that they are consistent with this Constitution.

2. No enrolled member who enrolled in good faith and met the membership requirements in place at the time of their enrollment under previous governing documents or statutes shall be subject to involuntary disenrollment unless they become enrolled in another Federally recognized tribe.

TITLE II. CITIZENSHIP, TRIBAL ENROLLMENT

Chapter 1. Enrollment for Citizenship Statute

2.101 PURPOSE

The purpose of this statute is to implement the provisions of Article V of the Little Traverse Bay Bands of Odawa Indians Constitution for Tribal Citizenship enrollment.

(Source: WOS 2008-006, May 31, 2008, Section I)

2.102 TITLE

This statute shall be designated as the Citizenship Statute of the Little Traverse Bay Bands of Odawa Indians and repeals and replaces the Tribal Enrollment Statute WOS 1999-014, as amended by WOS 2001-014, WOS 2002-06 WOS 2003-02, WOS 2004-04, WOS 2004-09 and 2006-008 and any and all other Enrollment Statutes or Amendments. This statute has no effect on the Citizenship status on any Tribal Citizen enrolled by the Tribe under previous law.

(Source: WOS 2008-006, May 31, 2008, Section II)

2.103 AUTHORITY

According to the Little Traverse Bay Bands of Odawa Indians Constitution, Article V. Section I states as follows: *"The Tribal Council shall have the power to enact laws not inconsistent with this Article* (Membership) *to implement these provisions*.

(Source: WOS 2008-006, May 31, 2008, Section III)

2.104 DEFINITIONS

The following terms and phrases, when used in this Statute, shall have the meaning ascribed to them.

A. "Adult" means *any person eighteen (18) years of age or older,* LTBB Constitution, Article III (A).

B. "Applicant" means a person who has submitted an application for Citizenship into the Tribe prior to final action on the application.

C. "Citizen" means an individual who has met the enrollment criteria of a Tribe and is officially enrolled with that tribe.

D. "Constitution" or "Tribal Constitution" means the Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted on February 1, 2005, and any amendments thereto.

E. "Degree of North American Indian Blood" means the total degree of North American Indian blood of all tribes recognized by the United States Federal Government or by the Canadian Federal Government plus the degree of North American Indian blood derived from non-federally recognized tribes that is able to be certified by Bureau of Indian Affairs.

F. "Descendent" means the biological descent where lineage can be traced from parent to child in each generation.

G. "Durant Roll" means *"the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910, and as clarified by Durant's corresponding field notes.",* LTBB Constitution Article V (1)(A)(b).

H. "Incompetents" means a person who has been legally determined by a Court of competent jurisdiction to be unable to take effective actions on their own behalf.

I. "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

J. "March 31, 2003 Roll" means *"All persons whose names appear on the Roll prepared by*

the Little Traverse Bay Bands of Odawa Indians and submitted to the Department of the Interior, Bureau of Indian Affairs, notice of receipt of which was published in the Federal Register on March 31, 2003, are members (Citizens) *of the Little Traverse Bay Bands of Odawa Indians."* LTBB Constitution, Article V(A)(2).

K. "Minor" or "Child/ Children" means *a person under eighteen (18) years of age*, LTBB Constitution, Article III (F).

L. "North American Indian Tribe" means any Tribe located within the continental United States, Alaska and/or Canada.

M. "Notarized" means a document attested before or authenticated by a public officer (a notary) who witnesses the signature and certifies that it is authentic.

N. "Parent" or "Legal Guardian" means a person who has the legal authority to take enrollment actions on behalf of another person because of age or incompetence.

O. "Records" means any item, collection, or grouping of information about or collected from individuals, including, but not limited to, birth certificates, genealogy records, or other documents that contain the individual's name, or identifying particulars assigned to the individual, from which information is collected for the purpose of determining the eligibility for enrollment.

P. "Relinquishment" means the personal, voluntary action taken by a Tribal Citizen or an individual legally authorized to act on the Citizen's behalf to terminate the Citizen's relationship with a tribe.

Q. "Reservation" means *"areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* LTBB Constitution, Article V(A)(1)(a).

R. "Tribal Council" means the Little Traverse Bay Bands of Odawa Indians legislative branch of the Tribe authorized to make enrollment decisions pursuant to Article VII of the Constitution.

S. "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-006, May 31, 2008, Section IV)

2.105 DESCENDANT ELIGIBILITY

A. The following persons shall be eligible for Citizenship in the Little Traverse Bay Bands of Odawa Indians according to the LTBB Constitution, Article V (3) provided that they meet the blood quantum eligibility:

a. *All persons who are one fourth (1/4) or more North American Indian blood quantum, and can prove direct lineal descent from a person or persons identified in one or more of the sub-sections below:*

i. *All persons listed on the Durant Roll under the following Ogemuk (leaders or "chiefs") or areas of residency:*

Nawwemaishcotay – Cross Village
Shawwawdayse – Charlevoix
Shawwawnegwnaybe – Bay Shore
Louis Micksawbay – Charlevoix
Awmegwawbay – Petoskey
Nawogemaw – Good Heart/Middle Village
Simon Kewaydezhick – Harbor Springs
Joseph Waybwaydum – Burt Lake
Daniel Nesawwawquot – Harbor Springs
Payzhickwaywedung – Beaver Island
Nawoquaygawbowe – Manistique
Kawgegaypenayse – North Shore

ii. *All persons whose name appears on the Durant Roll who resided within the Reservation at the time the Durant Roll was compiled;*

iii. *All persons listed on any of the Annuity payrolls of Ottawa & Chippewa Indians of Michigan from 1836 to 1871 and referenced in the 1850 through the 1920 Federal Population Enumeration (Census*

Records) who resided within our Reservation boundaries at the time the payrolls were written.

b. *All descendants of persons enrolled under subsection 2 or 3(a) who are at least one fourth (1/4) North American Indian blood quantum.*

B. The Enrollment Office may use United States Census Records from the years of 1850, 1860, 1870, 1880, 1884 and 1894 State Census Records, 1900, 1910, and 1920, with reference to 1930's Census to show lineal descent of persons enrolled under subsection A.

C. The Enrollment Office may consider other documentation that will provide support for descendants of persons enrolled under subsection A including birth certificates, military records, church records, baptismal records, school records, and adoptive birth certificates and other such records.

(Source: WOS 2008-006, May 31, 2008, Section V)

2.106 BLOOD QUANTUM ELIGIBILITY

The following persons shall be eligible for Citizenship in the Little Traverse Bay Bands of Odawa Indians according to LTBB Constitution, Article V (3) provided that they meet the Descendant eligibility:

A. North American Indian Blood Quantum—from Tribes within the Continental United States.

The following shall be used for computation of North American Indian Blood from Tribes located within the United States of America:

1. Blood quantum capable of being certified by the United States Bureau of Indian Affairs.

2. Blood quantum certified by a United States Federally Recognized Tribe as listed by the Secretary of Interior.

B. North American Indian Blood Quantum—from Tribes located within Canada.

The following shall be used for computation of North American Indian Blood quantum from Canada:

1. Blood quantum capable of being certified by the Canadian Federal Government, Library of Northern Indian Affairs.

2. Blood quantum certified by a Canadian Recognized Tribe as listed by the Library of Northern Indian Affairs, Canada.

C. North American Indian Blood Quantum—from *Little Traverse Bay Bands of Odawa Indians* and other *Michigan Ottawa and Chippewa* Blood Quantum.

The following shall be used for computation of *Little Traverse Bay Bands of Odawa Indians* and other *Michigan Ottawa and Chippewa* Blood quantum:

1. A person listed within the *Durant Roll Field Notes* with an indication of payment from the *1870 Annuity Pay Rolls of the Ottawas and Chippewas of Michigan* shall be presumed to be 4/4 North American Indian Blood from a Michigan Ottawa or Chippewa Tribe.

2. A Child or Children listed along with both parents within the *Durant Roll Field Notes* with an indication of payment for both parents from the *1870 Annuity Pay Rolls of Ottawas and Chippewas of Michigan* shall be presumed to be 4/4 North American Indian blood quantum of the Tribe indicated.

3. A Child or Children listed along with one parent within the *Durant Roll Field Notes* with an indication of payment for the one parent from the *1870 Annuity Pay Rolls of Ottawas and Chippewas of Michigan* will be presumed to be at least ½ North American Indian Blood quantum of the Tribe indicated, and may also supplement their blood quantum with other documentation.

4. Persons listed within the *Durant Roll Field Notes* as indicated by the *Authority of Chiefs* shall be presumed to be 4/4 North American Indian blood quantum of the Tribe indicated, unless the *Durant Roll Field Notes* indicate otherwise.

5. Other documentation that establishes North American Indian blood quantum prior to the *1870 Annuity Pay Rolls of Ottawas and Chippewas of Michigan* will be considered for establishing blood quantum.

6. The Enrollment Office may seek assistance from the Bureau of Indian Affairs records to accurately determine the proper band and blood quantum on the *1870 Annuity Pay Roll of Ottawas and Chippewas of Michigan* and *Durant Roll Field Notes* for matters of interpretation.

7. Solely for the purpose of determining degree of *Little Traverse Bay Bands of Odawa Indians* blood quantum for enrollment in the Tribe, the blood quantum of Citizens who submitted applications between May 23, 1999, and December 31, 2001, (under the provisions of WOS 1999005, Section V (B) (4); WOS 1999014, Section V (B) (3)) shall continue to be listed based upon the computations made during that period. A notation shall be made on the Tribal roll identifying the individuals affected by these computations. The blood quantum of the descendants of these individuals who applied after December 31, 2001 shall be computed based upon *1870 Annuity Pay Rolls of the Ottawas and Chippewas of Michigan* and the *Authority of Chiefs* found within the Durant Roll and the accompanying field notes.

D. Increasing Blood Quantum.

Blood Quantum may be increased through the following procedures:

The Enrollment Office shall research the request within the resources and legal constraints of the Enrollment Office always striving to be fair and equitable and if a determination is made by the Enrollment Office that a Citizen's blood quantum should be increased, this matter will be brought to the Citizenship Commission for approval. Upon such approval, the Enrollment Office shall make the changes for the Citizen and for all other persons affected by the increase.

(Source: WOS 2008-006, May 31, 2008, Section VI)

2.107 ADOPTION

A. According to LTBB Constitution a person who meets the following criteria may be

adopted into the Tribe, Article V(B):

a. *Any person who can verify at least one fourth (1/4) North American Indian blood quantum may be adopted into the Little Traverse Bay Bands of Odawa Indians by a majority vote of the full Tribal Council, if that person can also demonstrate, by other means, substantial community ties to the Tribe, as defined by Tribal statute.*

b. *Adult persons who become members of the Little Traverse Bay Bands of Odawa Indians through the adoption procedure developed by the Tribal Council to implement this section shall thereupon enjoy and be entitled to the rights and privileges associated with membership in the Tribe except the elected positions of Tribal government.*

B. Petitions for adoption into Tribal Citizenship.

1. Requirements – A person requesting to be adopted into Tribal Citizenship shall complete a "Petition for Adoption into Tribal Citizenship" form. Accompanying that petition shall be documentation establishing the possession of at least one-fourth (1/4) North American Indian blood quantum along with an affidavit of proof of substantial community ties.

2. Processing – A petition for adoption into Tribal Citizenship shall be processed in the same manner as an application for Citizenship, except that a person whose petition for adoption is denied does not have any right to appeal that decision.

3. Ineligibility – Any person who has been found ineligible for Citizenship for any reason including, but not limited to adoption, may file a new application whenever additional documentation becomes available. Such new application shall be processed as though no previous application had been received.

C. Demonstration of Substantial Community Ties.

1. Residency - A person that applies for adoption shall have resided within the 1855 Reservation for a period of at least fifteen (15) years, AND

2. Is either an immediate family member by marriage to a Tribal Citizen OR has demonstrated a strong commitment to the Tribe through participation or volunteerism in

Tribal functions such as Tribal sports, Tribal jiingtamon (pow-wows – celebratory gatherings), Tribal language studies or Tribal ghost suppers, but not limited to, and is shown through documentation of such participation or volunteerism.

D. Approval by Tribal Council.

Applications along with a recommendation from the Citizenship Commission shall be submitted to the Tribal Council for approval or disapproval of the adoption.

(Source: WOS 2008-006, May 31, 2008, Section VII)

2.108 CITIZENSHIP RIGHTS OF CHILDREN WHO HAVE BEEN ADOPTED

A. According to LTBB Constitution, Article V (B)(2) "*Indian minor children who are at least one fourth (1/4) North American Indian who have been legally adopted by members of the Little Traverse Bay Bands of Odawa Indians, in a Tribal Court or any other court of competent jurisdiction, are also eligible to be adopted by the Tribe. They shall thereupon enjoy and be entitled to the rights and privileges associated with membership in the Little Traverse Bay Bands of Odawa Indians except the elected positions of Tribal government.*"

B. Petitions for adoption into Tribal Citizenship.

1. Requirements – A person requesting a child to be adopted into Citizenship of the Tribe shall complete a "Petition for Adoption on a Tribal Citizenship" form. Accompanying that petition shall be documentation of a legal adoption from Tribal Court or a court of competent jurisdiction and documentation showing the possession of at least one-fourth (1/4) North American Indian blood quantum.

2. Processing – A petition for adoption into Tribal Citizenship shall be processed in the same manner as an application for Citizenship, except that a person whose petition for adoption is denied does not have any right to appeal that decision.

3. Ineligibility – Any person who has been found ineligible for Citizenship for any reason including, but not limited to adoption, may file a new application whenever additional documentation becomes available. Such new application shall be processed as

though no previous application had been received.

C. According to LTBB Constitution, Article V(B)(3) *"Any Indian child eligible for membership pursuant to Section A(3) of this Article who is legally adopted in a Tribal Court or any other court of competent jurisdiction by a non-member Indian or non-Indian family shall be eligible for membership in the Little Traverse Bay Bands of Odawa Indians, notwithstanding such adoption."*

D. Petitions for adoption into Tribal Citizenship.

1. Requirements – A person requesting a child be adopted into Citizenship of the Tribe shall complete a "Petition for Adoption into Tribal Citizenship" form. Accompanying that petition shall be documentation of eligibility for meeting the enrollment criteria for LTBB Citizenship.

2. Processing – A petition for adoption into Tribal Citizenship shall be processed in the same manner as an application for Citizenship, except that a person whose petition for adoption is denied does not have any right to appeal that decision.

3. Ineligibility – Any person who has been found ineligible for Citizenship for any reason including, but not limited to adoption, may file a new application whenever additional documentation becomes available. Such new application shall be processed as though no previous application had been received.

E. Approval by Tribal Council.

Applications along with a recommendation from the Citizenship Commission shall be submitted to the Tribal Council for approval or disapproval of the adoption.

(Source: WOS 2008-006, May 31, 2008, Section VIII)

2.109 DUAL MEMBERSHIP OR CITIZENSHIP PROHIBITION

A. According to the LTBB Constitution, Article V(C) *"No person shall be a member of the Little Traverse Bay Bands of Odawa Indians if that person is enrolled in another federally*

recognized tribe. Any person enrolled in another federally recognized tribe shall be subject to disenrollment from the Little Traverse Bay Bands of Odawa Indians."

B. If the person requesting Citizenship has had dual enrollment with any other tribe recognized by the federal government of the United States or by the federal government of Canada, then proof of documentation of relinquishment must be provided.

C. If an applicant has filed a conditional relinquishment of the membership in another tribe that will automatically become effective upon approval of the LTBB Citizenship application, this requirement shall be deemed to have been met.

D. Recognizing that some Canadian tribes refuse to remove a member or Citizen from their tribal roll even when that member or Citizen tries to be removed by filing a relinquishment, LTBB considers this requirement to have been met when an LTBB applicant or Citizen has made every possible effort to be removed from the other tribe's roll.

(Source: WOS 2008-006, May 31, 2008, Section IX)

2.110 RELINQUISHMENT OF CITIZENSHIP

A. According to the LTBB Constitution, Article V(D)

> ***1.*** *Enrollment in any other federally recognized tribe shall be deemed voluntary relinquishment of membership from the Little Traverse Bay Bands of Odawa Indians and such individual shall be subject to disenrollment.*
>
> ***2.*** *Individual members may relinquish their Little Traverse Bay Bands of Odawa Indians membership, which shall be done in writing and presented to the Tribal Council according to procedures developed by the Tribal Council.*
>
> ***3.*** *A Tribal Judicial review shall be required should a parent or legal guardian submit a voluntary relinquishment of Little Traverse Bay Bands of Odawa Indians membership for a minor or for a person deemed incompetent by the Tribal Court. Such relinquishment shall only become effective upon approval of the Tribal Court based on a finding that the relinquishment is in the best interests of the child or the person deemed*

incompetent.

B. Enrollment in either a United States Federally Recognized Tribe or a Canadian Federally Recognized Tribe after effective approval of the LTBB Citizenship shall be considered a voluntary relinquishment of Citizenship from LTBB and the person shall be disenrolled from LTBB by the Enrollment Office. The Citizen's name shall not be removed from the Tribe's current Citizenship roll until documentation of the acceptance into the other Tribe's membership or Citizenship is received and the same is submitted to Tribal Council and approved by Tribal Council.

C. Any adult Citizen of the Tribe may voluntarily relinquish his/her Citizenship by submitting such request along with a notarized signature to the Enrollment Office. The Enrollment Office shall submit the person's application for relinquishment to the Tribal Council at its next scheduled Tribal Council meeting within the Enrollment Office monthly report for acceptance by the Tribal Council. Tribal Citizenship relinquishment shall be come effective on the date of Tribal Council acceptance.

D. A parent or guardian of a Tribal Citizen child or a legally incompetent person that wishes to disenroll the child or the legally incompetent person shall submit a notarized form requesting such relinquishment to the Enrollment Office. The Enrollment Office shall file the request with the Tribal Court. The child or legally incompetent person shall remain a Citizen of the Tribe until a final order of the Tribal Court is issued that relinquishes the Tribal Citizenship status. Such decisions by the Tribal Court shall be based upon the best interest of the child or legally incompetent person.

(Source: WOS 2008-006, May 31, 2008, Section X)

2.111 RE-ENROLLMENT

A. According to the LTBB Constitution, Article V(E):

1. *Minor Re-Enrollment*
Any minor whose membership has been relinquished by a parent(s) or legal guardian, shall be eligible for re-enrollment at any time after reaching the age of eighteen (18). A minor may be re-enrolled before reaching the age of eighteen (18) upon recommendation

of the Tribal Court and approval of the Tribal Council.

2. *Re-Enrollment*
Once removed from the Tribal membership roll, an adult individual shall not be eligible for re-enrollment for a period of five (5) years.

B. A person requesting re-enrollment who is a least eighteen (18) years of age shall be eligible to file a petition for re-enrollment any time after turning the age of eighteen (18) and does not need to wait until the expiration of the five (5) year waiting period.

C. A parent or guardian may file a petition for re-enrollment of a child that has previously had their Citizenship relinquished. The Tribal Court shall consider the reasons for the original relinquishment and determine if changes have occurred to set aside the relinquishment. The re-enrollment Tribal Citizenship status shall become effective upon approval of the Tribal Court.

(Source: WOS 2008-006, May 31, 2008, Section XI)

2.112 CITIZENSHIP ROLL

A. According to the LTBB Constitution, Article V(G):

1. *The Executive Branch shall maintain the official Tribal roll of all Tribal members.*

2. *Membership shall be final upon affirmative vote of a majority of the full Tribal Council, provided that the Tribal Council must accept or reject new membership applications within sixty (60) days of receipt of recommendations from appropriate staff and committees.*

3. *The Executive Branch shall prepare and submit an annual report to the Tribal Council on the past year's changes to the membership roll.*

B. Once a year the Executive Branch shall submit a report to the Tribal Council which shall contain:

1. The total number of Citizens.

2. The total number of Citizen's deaths during the reporting period.

3. Number of individuals under one (1) year of age who enrolled during the reporting period.

(Source: WOS 2008-006, May 31, 2008, Section XII)

2.113 DISENROLLMENT

A. According to the LTBB Constitution, Article V(H):

1. *No person on the March 31, 2003 roll may be involuntarily disenrolled unless they are shown to have knowingly presented falsified documents or unless they are a member of another federally recognized Tribe.*

2. *Other members may not be disenrolled unless the Tribal Council determines by an affirmative vote of at least seven (7) of the nine (9) members of the Tribal Council that such persons do not meet the eligibility requirements of this Article.*

3. *No enrolled Tribal member who meets the eligibility requirements in this Article shall be subject to disenrollment.*

4. *No person may be disenrolled unless they are first notified in writing of the reason(s) that their eligibility is in question, and given one hundred eighty (180) days after such notification to present documentation and arguments to the Tribal Council. Upon request of the individual or after one hundred eighty (180) days, the Tribal Council shall give such person a fair hearing before the Council. The Tribal Council shall give such person at least thirty (30) days written notice before the hearing on their case before the Tribal Council. Until disenrollment is finalized, the individual shall have all rights of a Tribal member including services and any monetary entitlements. The hearing shall be open unless the member in question requests that the hearing be held in closed session.*

B. The burden of proof in disenrollment actions rests with the Tribe.

C. The Enrollment Office shall initiate research on the eligibility of a Tribal Citizen upon receipt of plausible information that may lead them to believe that they were presented with knowingly falsified documentation or evidence that the individual in question has enrolled in another Federally Recognized Tribe.

D. After completion of research by the Enrollment Office, the findings shall be presented to the Citizenship Commission. If the Citizenship Commission determines that disenrollment actions should proceed, a Citizen identified as subject to disenrollment shall be notified by the Enrollment Office by certified mail, return receipt requested, of the intent to disenroll.

E. The Enrollment Office shall forward any Citizenship Commission's determination of intentional fraud or falsifying of documents to the Tribal Prosecutor for potential violation of a Civil Infraction.

F. An erroneous enrollment is one where the applicant did not submit adequate documentation proving he/she met the constitutional criteria at the time of enrollment. This "erroneous enrollment" may have resulted from fraudulent submissions, mistakes in blood degree computations or inadequate research. There shall be a presumption that the level of documentation submitted was considered adequate under Tribal practice at the time of the enrollment unless there is proof to the contrary in Tribal law and/or written procedures.

G. Persons of this section who have been disenrolled may submit new applications for Citizenship when adequate documentation of eligibility has been obtained. Such applications will be processed as though the individual had not previously been a Citizen.

(Source: WOS 2008-006, May 31, 2008, Section XIII)

2.114 RIGHT OF APPEAL

A. According to the LTBB Constitution, Article V(H)(5):

> ***1.*** *Any person whose application for membership has been denied, or who has relinquished or been disenrolled, shall have a right of appeal to the Tribal Judiciary within one (1) year of such action.*

2. *Such appeal rights do not extend to any person whose petition for membership by adoption in the Little Traverse Bay Bands of Odawa Indians has been denied.*

3. *Nothing in this section is intended to prevent a person whose application has been denied from reapplying for membership at some future date.*

B. Eligible Appellants.

The following persons shall be eligible to file an appeal:

1. Any applicant who has been determined ineligible for Citizenship; provided however, that a person who has filed a petition for adoption into Citizenship has no right to an appeal; OR

2. Any person who has been disenrolled.

C. Timing of Appeal

Each notice of determination of ineligibility or disenrollment shall provide that an appeal must be received within one (1) year of the receipt of the notice in order to be considered. The date stamped on the receipt of the certified letter shall be considered the beginning of that period.

D. Filing of Appeal

The notice of appeal must be filed with the Tribal Judiciary. The date the appeal is received in the Tribal Court office shall be considered its date of receipt. An appeal must be in writing. No appeal may be filed by any form of electronic communication. Failure to file an appeal within one (1) year shall waive any right to an appeal.

E. Handling of Appeal

1. Upon receipt of an appeal, the Tribal Judiciary shall obtain a copy of the applicant's file from the Enrollment Office for review.

2. The Tribal Judiciary shall schedule a hearing on the appeal not less than sixty (60) days, or more than one hundred eighty (180) days, from the date of receipt of the appeal.

3. The Tribal Judiciary shall base its decision upon the documents available to the Citizenship Commission and the Tribal Council and shall not consider any new evidence, or evidence that was unavailable to the Citizenship Commission and/or the Tribal Council, at the hearing.

4. The Tribal Judiciary shall notify the Enrollment Office of its decision within a written Order by the Judiciary. The decision of the Tribal Judiciary shall be final, with no other appeals. The determination of Citizenship status or non-Citizenship status will take effect upon the receipt by the Enrollment Office of such Order.

(Source: WOS 2008-006, May 31, 2008, Section XIV)

2.115 TRIBAL COUNCIL

A. *Membership shall be final upon affirmative vote of a majority of the full Tribal Council, provided that the Tribal Council must accept or reject new membership applications within sixty (60) days of receipt of recommendations from appropriate staff and committees.* LTBB Constitution, Article V(G)(2).

1. The Enrollment Office shall submit their recommendation to full Tribal Council to either approve or disapproval of an application for enrollment along with appropriate documentation. Tribal Council shall only vote on such application when all nine (9) Tribal Council members are present.

2. The Tribal Council will inform the Enrollment Office of either their approval or disapproval of an application. Upon such notification, the Enrollment Office will give notice to the applicants of either their acceptance into Citizenship or their non-acceptance by certified mail. If an applicant is determined ineligible, then the Enrollment Office will also provide information on the applicant's right to appeal by providing a copy of this Statute. Such ineligible applicants shall also be advised that a new application may be submitted when the needed documentation of eligibility has been obtained. An individual who petitions for adoption into Citizenship shall not have the right to appeal.

3. The Tribal Council shall have sixty (60) days in which to either approve or disapprove an application. Tribal Council may utilize phone-polls in order to accommodate the deadline. If the Tribal Council has not acted on the application within receipt of the application within sixty (60) days, then the recommendations of the Enrollment Office and Citizenship Commission shall stand.

4. The Tribal Council shall not have discretion to override Enrollment denials made by the Enrollment Office and Commission provided such denials are based on lack of proper documentation required by law.

(Source: WOS 2008-006, May 31, 2008, Section XV)

2.116 TRIBAL CITIZENSHIP COMMISSION

The appointment, organization and functioning of the Citizenship Commission shall be governed by their specific statute.

(Source: WOS 2008-006, May 31, 2008, Section XVI)

2.117 APPLICATION FOR ENROLLMENT

A. All persons not currently listed on the Tribal roll must file an enrollment application. Applications for minors or incompetents must be filed by parents or legal guardians. A separate application must be filed by each individual seeking enrollment.

B. All enrollment applications must be filed with the Enrollment Office.

C. Each enrollment application must be completed in its entirety and must contain required personal information to properly determine the applicant's eligibility for enrollment.

D. If an application is not complete or all required documents are not included, the Enrollment Office shall return the originals to the sender with a letter clearly explaining the deficiencies.

E. Each application shall be initially examined within one-hundred and eighty (180) days of

its receipt to the Enrollment Office and a determination shall be made for one of the following:

1. The applicant is eligible for Tribal Citizenship;
2. The applicant is ineligible for Tribal Citizenship; or
3. Additional documentation and/or research is needed.

(Source: WOS 2008-006, May 31, 2008, Section XVII)

2.118 REPORT REQUIREMENTS

It is the responsibility of all adult Tribal Citizens and non-Citizen guardians of minor or incompetent Tribal Citizens, on behalf of themselves and any minor or incompetent Tribal Citizens under their care, to report all status changes to the Enrollment Office including change of address, deaths in the family and change of name.

(Source: WOS 2008-006, May 31, 2008, Section XVIII)

2.119 RECORDS

A. Records collected or retained by the Enrollment Office shall be maintained by the following:

1. All manual enrollment files shall be kept in areas that have posted appropriate warnings stating that access to the records is limited to authorized persons.

2. During working hours, the area in which the records are maintained or regularly used shall be occupied by authorized personnel or the access to the records shall be restricted by their storage in locked cabinets in a locked room.

3. During non-working hours, access to the records shall be restricted by their storage in locked cabinets in a locked room.

4. Computer Records that are maintained on computer shall have limited access to only those staff or personnel with written authority of the Tribal Council or Tribal Administrator as designated by Tribal Council. When maintained in computerized form,

enrollment files and records shall be maintained subject to adequate safeguards.

B. The following persons are authorized to review and handle enrollment records when in the discharge of their official duties upon being sworn to taking an oath of confidentiality. All of the individuals listed below, whose duties require handling of records are subject to this Statute and at all times shall take care to protect the integrity, security, and confidentiality of all citizenship files and documentation:

1. Enrollment Officer.
2. Authorized Enrollment Staff.
3. Members of the Citizenship Commission.
4. Members of the Tribal Judiciary.
5. Members of the Tribal Council.
6. LTBB Legal Department.

C. No records contained in enrollment files may be disclosed by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written consent of the individual to who the record pertains, except:

1. For purposes of the Bureau of the Census for planning or carrying out a census or survey or related activity pursuant to the provision of Title 13 of the United States Code.

2. To a recipient who has provided the Enrollment Officer, or other person responsible for the record system in which the documents contained in the enrollment files are maintained, with advance adequate written assurance that the records will be used solely as a statistical research or reporting record, and the records are to be transferred in a form that is not individually identifiable.

3. To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to last known address of such individual.

4. Pursuant to the order of the Tribal Court upon showing of good cause or compelling circumstances.

5. A list of enrolled citizen's names and addresses may be included in a Directory prepared by the Enrollment Office in accordance with this Statute. The Directory of Citizens' names and addresses or mailing labels of the same may be provided to any Tribal citizen or employee of the Tribe making such request.

6. Information submitted to the State of Michigan to implement the terms of Agreements made between the State and the Tribe.

7. Information submitted to the State of Michigan, or any other sovereign entity or agency representing a sovereign entity, to implement the terms of any agreement authorized by the Tribal Council between the Little Traverse Bay Bands of Odawa Indians and a sovereign entity regarding the sovereign entity's` acceptance of Tribal identification cards.

8. Information supplied by the Enrollment Office to the Economic Development Department for the purpose of implementing a swipe card system to aid in the implementation of any tax agreement authorized by the Tribal Council between the Little Traverse Bay Bands of Odawa Indians and any other governmental entity, or for such other purposes as may be authorized by the Tribal Council.

9. Release of copies of tribal identification cards, social security cards or numbers and birth certificates to the Director of LTBB Human Services for Tribal children who have been placed outside the home of their parent or guardian by any court. A written certification by the Human Services Director is acceptable evidence of such out-of-home placement. Human Services may provide such information to foster parents or agencies as needed to protect the interests of the child.

10. Release to the LTBB Human Services, LTBB Legal Department, LTBB Prosecutor, or any other attorney representing LTBB, of any information needed to verify the LTBB Citizenship or eligibility status of children who have foster care, guardianship or any potential out-of-home placement proceedings pending before any state or tribal court.

11. Release of information regarding active enrollment status of a Citizen to another Federally Recognized Indian Tribe or the Bureau of Indian Affairs when requested by a duly authorized official of the requesting tribe or agency.

12. Release of information to a law enforcement agency pursuant to a valid court order or subpoena.

13. Release of information regarding LTBB citizenship to the Accounting Department for the purpose of implementing or facilitating any revenue allocation plan enacted by the Tribal Council.

14. Release of information to the Tribal Trust Fund Board for determination of eligibility for payments to Tribal Citizens.

15. Release of information to the Tribal Election Board for determination of eligibility to run for election, register to vote, signing of petitions and other purposes required by the Election Board to carry out its Constitutionally mandated duties.

D. An adopted person's eligibility for enrollment is determined through one or both of the natural parents. Documentary evidence submitted to support an adopted person's application must show relationship to the natural parent through whom eligibility for enrollment is determined. The information concerning adopted persons shall be recorded as confidential and shall not be made available to any other person. This information shall be stored in locked file cabinets and adequate safeguards shall be installed to ensure that the confidentiality of these records shall not be violated.

E. Where a record is disclosed to any person, or to another agency, under any of the specific exceptions provided by this section. An accounting shall be made. The accounting shall record who requested the disclosure, the date, nature and purpose for each disclosure, and of the person or persons of whom the disclosure was about. Accounts shall be recorded; the date and time of all disclosures of a record shall be made when records are accessed.

F. Tribal Citizens may obtain photo copies of documents in their own enrollment file. A Tribal Citizen can only access information in other Citizen's files with written authorization of the Citizen. When requested by the mother, father, son, daughter, brother or sister of a deceased Citizen, that deceased Citizen's birth certificate or death certificate may be copied and released to that relative. Any other release of documents from the file of any deceased Citizen must be authorized by an order of the Tribal Court. Pursuant to this Statute, documents in one Citizen's folder may be used to prove the eligibility of an applicant or of another Citizen whose eligibility

is in question. The Enrollment Office may set and collect reasonable fees for collecting and/or copying records.

G. A Tribal directory shall be published at least once every four (4) years as follows:

1. The Enrollment Office is authorized to prepare a directory that includes the names and addresses of adult Citizens of the Tribe unless they decline inclusion or they have no known address.

2. A copy of the Tribal Citizenship Directory shall be provided to Tribal Citizens upon request. The Enrollment Office may charge a nominal fee to cover its cost.

3. The Tribal Directory may not be quoted from, published, reproduced, or displayed, in whole or in part, without the written permission of the holder of the original copy. This copy may not be sold or given to other persons who are not Tribal Citizens.

H. A list containing only the names of all adult Tribal Citizens shall be public and available to Tribal Citizens upon request.

(Source: WOS 2008-006, May 31, 2008, Section XIX)

2.120 FALSE ACTIONS; CIVIL INFRACTION

Any party who knowingly submits fraudulent documents to the Enrollment Office or makes fraudulent statements on any documentation submitted to the Enrollment Office, or any party who aids or abets such a false action, may be found liable for a Civil Infraction and may be subject to a fine not to exceed $5,000.

(Source: WOS 2008-006, May 31, 2008, Section XX)

2.121 BURDEN OF PROOF

A. The burden of proof is on the applicant to prove his/her eligibility for Tribal Citizenship through required documentation.

B. For removal of Tribal Citizenship the burden of proof lies with the Tribe.

C. The burden of proof for all proceedings under this Act, unless otherwise indicated, shall be that of a preponderance of evidence.

(Source: WOS 2008-006, May 31, 2008, Section XXI)

2.122 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.

(Source: WOS 2008-006, May 31, 2008, Section XXII)

2.123 EFFECTIVE DATE

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

(Source: WOS 2008-006, May 31, 2008, Section XXIII)

Chapter 2. William Ray Kiogima and Helen Agnes Kiogima Noozwin Act

2.201 PURPOSE

The right of an individual to choose what they are called by others is a fundamental human right that has been practiced for as long as the Odawak have given themselves names. There have been cultural, spiritual, traditional, and personal reasons for name changes throughout our history and many people have carried four or more names at one time. This Statute is hereby enacted to enable Tribal Citizens the opportunity to have multiple names and change their name.

(Source: WOS 2006-001, January 8, 2006, Section I)

2.202 DEFINITIONS

The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

A. "**Noozwin**" shall mean what a person is called by others.

B. "**Name**" shall mean what a person is called by others.

(Source: WOS 2006-001, January 8, 2006, Section II)

2.203 APPLICATION

A citizen of the Tribe shall have the authority to:

A. choose their own name and;

B. have more than one name and;

C. choose what titles, prefixes or suffixes if any may or may not be added to their name and;

D. choose whether or not humans may use noozwin that is not their legal identity and;

E. choose which name shall be used for legal identity

(Source: WOS 2006-001, January 8, 2006, Section III)

2.204 CONDITIONS

The Tribal Executive shall:

A. publish legal identity name changes of adults and;

B. maintain a database of at least

C. keep a history of each Tribal Citizen's legal identity and;

D. establish fees that do not exceed $15.00 for name changes including the fee for a new Tribal Identity card.

(Source: WOS 2006-001, January 8, 2006, Section IV)

2.205 REGULATIONS REQUIRED

The Tribal Executive shall:

A. Establish Tribal Codes of Regulation to implement this statute.

(Source: WOS 2006-001, January 8, 2006, Section V)

2.206 EXECUTIVE AUTHORITY

A. The Tribal Executive is hereby mandated to implement this Act and to enforce all approved Tribal Codes of Regulation.

(Source: WOS 2006-001, January 8, 2006, Section VI)

2.207 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.

(Source: WOS 2006-001, January 8, 2006, Section VII)

2.208 EFFECTIVE DATE

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

(Source: WOS 2006-001, January 8, 2006, Section VIII)

TITLE III. ELECTIONS

Chapter 1. Tribal Elections and Election Board

3.101 PURPOSE

A. The Election Board is charged with the handling of all Primary, General, Referendum, Initiative, and Special elections properly called for under applicable Tribal law, as well as setting campaign guidelines for any tribal elections.

B. The Election Board is charged with maximizing the efficiency of the Election Board while respecting the Tribal Traditions, Values, and Culture of the Little Traverse Bay Bands of Odawa Indians.

C. This Statute repeals and replaces Waganakising Odawak Statute (WOS) 2004-06.

(Source: WOS 2006-026, December 29, 2006, Section I)

3.102 AUTHORITY

The Election Board is created to carry out express mandates within the Constitution as an independent entity and shall be adequately funded to fulfill its purposes.

(Source: WOS 2006-026, December 29, 2006, Section II)

3.103 ELECTION STATUTE

This statute establishes the proceedings and regulations to govern elections under the

Constitution of the Little Traverse Bay Bands of Odawa Indians (LTBB) under the provisions of Public Law 103-324 or any successor Constitution adopted by the Tribe.
(Source: WOS 2006-026, December 29, 2006, Section III)

3.104 DEFINITIONS

A. "**Business Day**". Any day of the week that the Tribal Administrative Offices are open.

B. "**Certified Signatures**". Signatures which can be verified with the signatures on file with Enrollment, or Voter Registration forms on file with the Election Board, or power of attorney, and/or guardianship signatures. The Election Board may take personal verification of signatures from individuals.

C. "**Constitution**". The Constitution adopted February 1, 2005, by the Tribal citizenship of Little Traverse Bay Bands of Odawa Indians.

D. "**Dates of Events**". General Tribal Elections will be held on the last Monday in June of every odd numbered year. Other events are determined by special elections called by Tribal Council Referendum or Initiative. When the event, such as posting of election results, falls on a Saturday, Sunday or holiday, the event will take place on the next business day. When such changes are necessary the entire sequence of events shall be adjusted to maintain the required number of days between each event. Refer to Section IV(C).

E. "**Days**". A period of time consisting of 24 hours including the solar day and night.

F. "**Election Notice**". The official notice that an election will be held on a specific date established by the Election Board.

G. "**General Election**". The election of Tribal Council members every two (2) years and the Tribal Chairperson/Vice Chairperson every four (4) years.

H. "**Initiative**". An election held pursuant to article XIV of the Constitution.

I. "**Majority**". 50% plus one of the votes cast in an election. Provided, that elections for Tribal Council and Tribal Chairperson/Vice Chairperson are determined by the highest vote recipients for each position which may or may not constitute a majority.

J. "**PL 103-324**". "The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act" as signed into law on September 21, 1994.

K. "**Poll Official**". An Election Board Member or any other appointee to the Election Board serving at the polls on Election Day.

L. "**Polling Place**". Location designated by the Election Board where balloting will take place.

M. "**Qualified Voter**". All citizens of the Tribe eighteen (18) years of age or older at the time of election.

N. "**Referendum Election**". An election held pursuant to Article XIV of the Constitution.

O. "**Registered Voter**". Qualified Voters of the Tribe who have a Voter Registration Form on file with the Election Board ninety (90) days before the day of election.

P. "**Rejected Ballot**". Ballot in which the intention of the voter cannot be determined.

Q. "**Replacement Ballot**". A second ballot provided to the voter in the event of a lost or spoiled ballot.

R. "**Split Ballot**". A ballot in which the intention of the voter can be determined in one race, but not the other.

S. "**Spoiled Ballot**". A ballot that has markings other than what was originally on the ballot, provided the intention of the voter is not clear.

T. "**Submission to Election Board**". All materials presented to the Election Board, with the exception of petitions which are protesting the results of an election shall be

transmitted directly to the tribal court.

U. "**Tribe**". The Little Traverse Bay Bands of Odawa Indians.

V. "**Valid Ballot**". A ballot in which the intention of the voter is very clear.

W. "**Voter Registration Form**". Form approved by the Election Board containing both the signature of the voter and a signature of a public notary or a legible copy of the following forms of identification: a valid Tribal Identification Card, Driver's License, state issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.

(Source: WOS 2006-026, December 29, 2006, Section IV)

3.105 COMPOSITIONS, APPOINTMENTS, OATH OF OFFICE, VACANCIES, AND REMOVAL OF ELECTION BOARD

A. Composition

1. The Election Board shall be appointed by Tribal Council and shall consist of five (5) enrolled Tribal citizens, eighteen (18) years of age or older who meet the voting eligibility requirements.

2. Election Board Officers - The Election Board shall organize itself with a Chairperson, Vice-Chairperson and a Secretary/Treasurer.

3. Election Board members cannot be candidates for any Tribal elected position while serving on the Election Board.

B. Appointment and Terms

1. The initial appointment of the Election Board will be for staggered terms consisting of two (2) two year terms and three (3) four year terms. The terms thereafter shall be for four (4) years.

2. There shall be no limit on reappointment.

3. Members will serve until their successors are appointed and sworn in.

C. Oath of Office

Election Board Members are to be sworn in under an oath of office prepared and administered by the Tribal Court within thirty (30) days of their appointment.

D. Vacancies

In the event a vacancy occurs on the Election Board by virtue of death, resignation, or removal, the Tribal Council shall appoint a Tribal citizen who meets the eligibility requirements for the remainder of the unexpired term.

E. *Removal of Member of Election Board (Refer to Article XIII D. of the Constituion)*

Upon presentation of a petition signed by at least one hundred (100) members alleging neglect of duties or intentional wrongdoing, and a hearing where the accused is afforded proper due process, the Judiciary may remove Election Board members for good cause.

(Source: WOS 2006-026, December 29, 2006, Section V)

3.106 TYPES OF ELECTIONS

A. Primary

1. In the event that more than (2) candidates per office file sufficient petitions and are therefore certified as candidates for elective office in any scheduled election, a Primary Election shall be conducted to reduce the number of candidates in the General Election to two (2) candidates per office.

2. In the event that a Primary Election is required under this Section, the Primary

Election shall be conducted no less than forty five (45) days prior to the General Election. Ballots for the Primary Election shall be mailed no later than seventy five (75) days prior to the General Election.

3. If a Primary Election is required under this Section, the schedule for distribution of Notice of Election and candidate filing dates shall be scheduled to coincide with the scheduled date of the Primary Election.

4. If two (2) or less candidates file sufficient petitions for an elected office, then a Primary Election shall not be required and the standard election calendar shall apply.

B. General

The General Election shall be held the last Monday in June every two (2) years for the purpose of electing the Tribal Council members whose terms are expired and the Tribal Chairperson/Vice Chairperson every four (4) years. Provided, in the event of extraordinary circumstances beyond the Election Board's control rendering the holding of the election impossible, such as a tornado, act of war, or unplanned shut down of the Post Office, the Election Board may postpone Election Day until such event subsides.

C. *Referendum (Refer to Aricle XIV B. Referendum in the Constitution*

1. *The Tribal Council may decide by an affirmative vote of six (6) Council members to submit any proposed or any enacted statute to a vote of registered Tribal voters at a referendum election.*

2. *The procedure for a referendum election shall be as follows:*

a. *Referendum elections shall be held no sooner than forty five (45) days and no later than ninety (90) days from the date the proposed or existing statute is referred to the Election Board. The date of the referendum election shall be set by the Election Board.*

b. *A referendum proposal shall be enacted by the vote of a majority of those*

actually voting; provided that at least twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians who were registered on the day it was referred by the Tribal Council to the Election Board cast ballots in said election. If less than twenty percent (20%) of the registered voters of the Tribe casts ballots in said election, the referendum shall be deemed to be defeated.

3. Petition procedure and signature verification

a. Shall be submitted on the official form approved by the Election Board.

b. All information requested on the form must be filled in completely and legibly. Incomplete or illegible information is grounds for disqualification.

c. Petitions submitted to the Election Board must be date and time stamped. A receipt reflecting the number of pages accepted must be issued to the petitioner.

d. The Election Board shall not add to or in any way alter anything contained in the Petition. Only petitions that are complete as submitted shall be deemed valid.

e. The Election Board shall review and validate all signatures on the petition. A valid signature is that of a registered voter whose signature can be determined to be the same as that appearing on official voter registration documents.

D. ***Initiative (Refer to Article XIV A. Initiative and Referendum in the Constitution)***

1. *Initiative is the power of the Tribal Members to propose laws and to enact or reject them in an election. The members of the Little Traverse Bay Bands of Odawa Indians shall have the power to adopt, by initiative, any statute, and the power to repeal or amend any statute in accordance with the provisions of this Article; provided that statutes addressing appropriations for Tribal institutions or statutes establishing the Tribal budget shall be exempt from the initiative process.*

2. *The procedure for initiative shall be as follows:*

a. *The proponents of an initiative shall submit it to the Election Board for examination as to technical sufficiency and to ensure clarity before it is circulated. The Election Board shall deliver its written comments to the proponents within thirty (30) days.*

b. *Initiative petitions must be signed by a number if registered voters equaling twenty percent (20%) of the registered voters who voted in the last general election. After the signatures have been verified by the Election Board, the Election Board shall schedule an election.*

c. *If a general election is scheduled to be held less than twelve (12) months from the date the Election Board has verified the petition, the initiative will be scheduled for a vote at that general election. If the next general election is scheduled for a time more than twelve (12) months after the verification, a special election shall be scheduled.*

d. *An initiative proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty (20%) of the registered voters who are registered on the day of submission of the petition cast ballots in said special election. If less that twenty percent (20%) of the registered voters of the Tribe cast ballots in said election, the initiative shall be deemed to be defeated.*

e. *If an initiative is defeated in an election, the same matter cannot again me the subject of an initiative election for two (2) years.*

E. ***Recall (Refer to Article XIII A. Recall in the Constitution)***

1. *The Chairperson, Vice Chairperson or Tribal Council Members may be subject to recall at any time under the following procedure:*

a. *A recall petition signed by a number of registered voters equaling twenty (20%) of the registered voters who voted in the last general election is presented*

to the Election Board. All petitions must be on forms approved by the Election Board.

b. *Within ten (10) business days of receipt of the petition, the Election Board shall either certify the validity of the petition and signatures or return it to the citizen who submitted it with a written explanation of the defect.*

c. *A recall election shall be scheduled by the Election Board within ninety (90) days upon verification of the petition and its signatures.*

d. *The elected official shall be recalled upon a majority vote if at least thirty percent (30%) of the registered voters vote in the recall election.*

e. *To provide for continuity of governance no more than four (4) Tribal Council members shall be subject to a recall election at any one time.*

2. *Each elected official may be subject to no more than one (1) recall election per calendar year.*

(Source: WOS 2006-026, December 29, 2006, Section VI)

3.107 REGISTATION AND VOTING

A. Candidate Qualifications

1. Enrolled Tribal citizen eighteen (18) years of age or older at the time of election.

2. Tribal Citizens serving on Tribal Council , or Chairperson/Vice Chairperson, may not be employed under the Tribal Government Administration, nor may be a paid consultant for the Tribe, or a consultant for another party in that party's dealings with the Tribe.

3. No person shall serve as Tribal Council, Chairperson or Vice Chairperson within seven (7) years of completion of a sentence or probation upon being convicted of a

felony, unless such conviction has been vacated or overturned.

4. The Chairperson and Vice Chairperson will reside within the Reservation of the Tribe no later than ninety (90) days after the general election for the term of their office.

B. Registration

1. This section sets out procedures to ensure that a vote cast in the name of the voter is in fact cast by that voter.

2. Each Tribal citizen who desires to vote in an election, must have a Voter Registration Form on file with the Election Board ninety (90) days before the day of election.

3. The Voter Registration Form shall be in a format approved by the Election Board.

4. The Voter Registration Form must be signed by the Tribal citizen and verified either by (1) the seal and signature of a notary public or (2) attaching a legible copy of one of the following forms of identification: a valid Tribal Identification Card, Driver's License, state issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.

5. It is the responsibility of each Tribal citizen who wishes to vote in an election to ensure that he or she has submitted a Voter Registration Form to the Election Board.

6. Any voter who changes his or her name shall submit a new Voter Registration Form to the Election Board.

7. Based on the Voter Registration Forms submitted to the Election Board, the Election Board shall keep a roster of voters known as the Poll Book with voters listed in alphabetical order or nearly so as possible. The Election Board shall update the Poll Book as Voter Registration Forms are submitted.

C. Voting

1. Voting shall be done by secret ballot mailed to all Tribal citizens registered to vote under subsection (B) above.

2. All ballots shall be sent with a self-addressed stamped return envelope.

3. All ballots mailed to the Election Board must be received at the designated Michigan Post Office no later than 4:00 p.m. on Election Day or hand delivered to the Polling Place by 6:00 p.m. Ballots may be hand delivered to the Polling Place on Election Day only.

4. No voter shall cast more than one ballot in any election.

5. No write-in candidates will be allowed.

6. Replacement ballots will be available upon request by mail, or at the polling place on the day of election. Only one ballot per voter will be counted in the final results.

(Source: WOS 2006-026, December 29, 2006, Section VII)

3.108 COUNTING, POSTING, AND RETENTION OF BALLOTS

A. Ballot Counting

1. All ballots will be opened, counted, and recorded by the Election Board in an open meeting.

2. In the event of a split ballot, the vote that can be determined will be counted.

B. Posting of Preliminary Results

1. The preliminary results will be posted as follows:

a. Within twenty four (24) hours after the closing of the polls in one visible

and accessible place designated by the Election Board.

b. Within three (3) business days on the Little Traverse Bay Bands of Odawa Indians website.

C. Certification of Election Results

The election shall be certified by the Election Board within ten (10) business days after the closing of the polls, providing there are no unresolved challenges pending.

D. Election Results Challenges

Ten (10) business days after the preliminary election results are posted, all election results shall be declared final, unless the results are protested. Any registered Tribal voter may protest the results of an election by filing a written protest with the Tribal Court within ten (10) calendar days after the preliminary results are posted. The Tribal Court must act in an expedient manner on any protest received, in all cases reaching a decision within twenty (20) days of the date of the filing of a protest.

E. Retention of Ballots

1. The Election Board shall retain all ballots in sealed containers, including ballots that were determined not to be valid for any reason, until the election is deemed final.

2. Upon finalization of election results, ballots will be retained in secure containers for one year.

(Source: WOS 2006-026, December 29, 2006, Section VIII)

3.109 NOMINATIONS, ELECTIONS, AND TIME FRAMES

A. Nominations Procedures

1. Nominations for candidates are placed on petitions designated by the Election

Board.

2. Candidates must be enrolled Tribal citizens and eighteen (18) years of age or older.

3. The nomination petitions shall contain the signature and Tribal enrollment numbers, and/or birth date of twenty five (25) registered voters.

4. A registered Tribal voter may sign more than one nominating petition.

5. Petitions will be prepared and mailed by the Election Board to all citizens registered to vote at least one hundred thirty four (134) calendar days prior to the election.

6. Nomination petitions must be submitted to the Election Board no less than one hundred four (104) calendar days prior to the election.

7. Candidates shall submit a written statement on a form prepared by the Election Board and any other documentation requested along with their nomination petition.

8. The Election Board shall review and validate all petitions received within the time frame of one hundred four (104) calendar days and prepare a final list of candidates no later than ninety (90) calendar days prior to the election.

9. Candidates wishing to withdraw their names will do so in writing no less than forty five (45) calendar days prior to the election.

10. The Election Board shall prepare the election ballots and mail them to all registered voters no less than thirty (30) calendar days prior to the election.

11. Names on the ballots will appear in the order in which their nominating petition is received.

12. Names shall appear on the ballot as they are printed on the nomination petition.

13. No Election Board member may sign any petitions except in the petition validation process.

14. Two Election Board members shall sign, time and date all petitions after validation process.

B. Election Day Procedures

1. Polls open at 9:00 a.m. at a place designated by the Election Board and announced to the citizenship through the election notices.

2. The Election Board Chairperson or Election Board Vice-Chairperson and one other member of the Election Board and a Tribal Police Officer will go to the Post Office to retrieve the ballots.

3. Ballots are brought back to the polling place, removed from the envelopes, and placed in the ballot box.

4. The envelopes are counted and the citizenship numbers are recorded by the Election Board.

5. Ballots are opened and tabulated. Results of the tabulations are recorded by the Election Board. The Election Board may use electronic means to tabulate ballots.

6. At 4:00 p.m., the Election Board Chairperson or Election Board Vice-Chairperson and another member of the Election Board and a Tribal Police Officer leave to make the final pick-up from the Post Office.

7. These ballots are then processed as described above.

8. Polls close at 6:00 p.m. and the counting and recording continue until all the ballots are recorded and tabulated.

9. Ballots will not be accepted after 6:00 p.m. eastern standard time.

10. The preliminary results are posted as follows:

a. In one visible and accessible place designated by the Election Board within twenty four (24) hours after the closing of the polls.

b. Within three (3) business days on the Little Traverse Bay Bands of Odawa Indians website.

C. Ties

1. General Election

a. In the event that at the completion of the canvas of the General Election results the tally reveals that any candidate has received the same number of votes as received by another candidate in that contest, the Election Board will conduct a recount of the ballots cast in that contest. Should a tie exist at the completion of the recount, the Election Board will conduct a special run-off election limited to the tied candidates unless the breaking of such tie will not affect the outcome of the election. Such a run-off election shall be immediately noticed to be held not more than forty five (45) days from the date of the General Election.

b. The same procedure will be followed for a tie in a referendum election.

2. Announcement of Results – Run-off Election

An uncertified statement shall be issued and posted to announce the election results within three (3) days following completion of the canvas of the election.

D. Recounts

Any contest that ends with a margin of less than one percent shall be subject to an automatic recount. A second machine shall be used for the recount. Recount of elections that end with a

margin of one percent or greater shall not be subject to recount except in cases where a candidate has shown the Tribal Court credible evidence of fraud that would change the election results.

E. Poll Sitters

Poll sitters are person who by contractual agreement observe the activities of the election process at the polling place on Election Day. They shall not interfere in any way with the proceedings.

F. Poll Watchers

Each candidate for a position on Tribal Council is entitled to have one person observe on their behalf, the counting of ballots at the polling place on Election Day. The name of that person shall be submitted on a form approved by the Election Board to the Election Board prior to Election Day. They shall not interfere in any way with the proceedings.

G. Campaigning

1. Campaigning for Tribal offices is prohibited in Tribal Governmental Operations buildings during normal business hours.

2. A written campaign financial statement must be submitted, signed and dated, by each candidate to the Election Board within thirty (30) calendar days after the final official certification of the election.

H. Oath of Office

At the first regularly scheduled Tribal Council meeting after the certification of the election results, the Tribal Court will conduct the swearing in ceremony for the newly elected citizens. Incoming Council members' terms shall commence, and outgoing Council members' terms shall expire, upon such swearing in.

(Source: WOS 2006-026, December 29, 2006, Section IX)

3.110 VIOLATIONS AND PENALTIES

A. Conflict of Interest

An Election Board member shall recuse him or herself from any certification involving an immediate family member. A member of an immediate family for purposes of this statute is any person living in the candidate's household, or a parent, brother, sister, spouse, son, or daughter of the candidate.

B. Bribery of Electors

It is unlawful to knowingly give, cause to be given, or promise to be given, any money to any person as reimbursement for money, or other thing of value, expended by such person in whole or in part for bribery at any Tribal election: provided, however, that it shall not be unlawful for any candidate personally or by agent to provide transportation to the polls of any voter.

C. Coercion of Elector

It is unlawful to make use of force, or to request another person to use or threaten force, in order to influence any person's vote in any election, or to prevent any person from voting in any election.

D. Intimidation of Tribal Citizen Employees by Employer

1. It is unlawful for any employer to threaten a Tribal citizen employee with dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable working conditions, for the purpose of influencing such employee to vote or refrain from voting, or to vote for any particular person in any Tribal Election.

2. As used in this section the term "employer" means any entities, or natural persons and their agents, employing Tribal citizens, including contractual relationships, over who the Tribe may properly exercise criminal jurisdiction.

E. Interference With or Corruption of Election Officer

It is unlawful for any persons to offer or give a bribe to any member of the Election Board, or to influence or attempt to influence any of said officers in the performance of their official duties by means of force, or threats or promise of any nature.

F. Violation of Duty by Election Board

It is unlawful for any member of the Election Board to knowingly and willfully fail or neglect any duty under any part of this statute in the manner prescribed by this statute, or to accept any money or other thing of value from any candidate or from anyone acting or purporting to act on behalf of any candidate. Members of the Election Board shall not endorse any candidate while performing duties under this statute.

G. Tampering With Election Ballots

It is unlawful for persons to tamper with election ballots, tallies, voting materials, or any compilation summaries, or totals of voting results by destroying, defacing, writing on, changing marks or totals, on any such ballots or voting materials or results.

H. Penalties

Any violation of this section shall be considered a civil infraction with penalties not to exceed five thousand dollars ($5,000.00).

(Source: WOS 2006-026, December 29, 2006, Section X)

3.111 AMENDMENTS

A. The Election Board may make recommendations to the Tribal Council regarding future amendments to this Statute.

B. No amendments to this Statute can take effect while an election is in progress.

(Source: WOS 2009-014, May 20, 2009, Section)

3.112 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2006-026, December 29, 2006, Section XI)

3.113 EFFECTIVE DATE

This Statute shall take effect immediately upon enactment.

(Source: WOS 2006-026, December 29, 2006, Section XII)

TITLE IV. NATURAL RESOURCES
Chapter 1. Fishing Rules and Regulations for the Treaty Ceded Waters of Lake Superior, Huron, and Michigan

4.101 PURPOSE

On August 17, 1997, the Little Traverse Bay Bands of Odawa Indians' ("LTBB") Tribal Council enacted Waganakising Odawak Statute 1997016 titled "Little Traverse Bay Bands of Odawa Indians Commercial and Subsistence Fishing Rules and Regulations for The Treaty Ceded Waters of Lakes Superior, Huron and Michigan" which replaced Waganakising Odawak Statutes 1995-004 and 1994-001. Subsequent to the enactment of Waganakising Odawak Statute 1997016, LTBB became a party in the Federal Court Case of *United States, et al. v. Michigan*, United States District Court for the Western District of Michigan, Case no: 2:73 CV 26. As party to that case, LTBB participated in negotiations which culminated in the entry by the Court of a Consent Decree on August 7, 2000 which is binding on LTBB. The Consent Decree states that "[t]he Tribes shall adopt the CORA Charter, Tribal Plan, and Tribal Code for management and regulation of their fisheries. . ."

(Source: WOS 2003-09, December 7, 2003, Section I)

4.102 DEFINITIONS

A. "**Consent Decree**" means the Consent Decree entered by the United States District Court for the Western District of Michigan by Judge Richard Enslen on August 7, 2000 in the case of *United States et al. v. Michigan*, Case No 2:73 CV 26.

B. "**Tribal Code**" means the *Chippewa Ottawa Resource Authority Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron, and Michigan*, including any future changes adopted in accordance with the Tribal Plan and the Consent Decree which the Consent Decree mandates the party Tribes adopt.

C. "**Tribal Plan**" means the *Management Plan for the 1836 Treaty Great Lakes Waters* adopted by the Tribes and attached to the Consent Decree as Appendix B, including any future changes adopted in accordance with the Tribal Plan and the Consent Decree.

(Source: WOS 2003-09, December 7, 2003, Section II)

4.103 REPEAL AND REPLACEMENT OF PRIOR LEGISLATION

A. Waganakising Odawak Statute 1997016 is repealed and replaced by the Tribal Code defined in Section II of this Statute.

(Source: WOS 2003-09, December 7, 2003, Section III)

4.104 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of the Tribal Code as defined in and adopted under 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, part, 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.

(Source: WOS 2003-09, December 7, 2003, Section IV)

4.105 EFFECTIVE DATE

This Statute takes effect immediately upon enactment.[December 7, 2003]

(Source: WOS 2003-09, December 7, 2003, Section V)

NOTE: The *Chippewa Ottawa Resource Authority Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron, and Michigan* adopted by the Little Traverse Bay Bands under this Title IV, Chapter 1 (WOS 2003-09) is printed below. The document is subject to periodic revision by the Chippewa Ottawa Resource Authority. Tribal member commercial and subsistence fishers and Court personnel can obtain updates through the LTBB Natural Resources Department.

CHIPPEWA OTTAWA RESOURCE AUTHORITY COMMERCIAL, SUBSISTENCE, AND RECREATIONAL FISHING REGULATIONS FOR THE 1836 TREATY CEDED WATERS OF LAKES SUPERIOR, HURON, AND MICHIGAN

PART ONE: GENERAL MATTERS

SECTION I. PURPOSE.

These Regulations are adopted to govern the commercial, subsistence, and recreational fishing activities of members of the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Sault Ste. Marie Tribe of Chippewa Indians in exercising the Great Lakes fishing rights reserved by the Tribes in the Treaty of March 28, 1836. These Regulations are intended to ensure conservation of the fishery resource for future generations of the Tribes and to ensure safe fishing practices.

SECTION II. SCOPE AND APPLICATION.

These Regulations apply to the commercial, subsistence, and recreational fishing activities of all enrolled members of the Tribes in the 1836 Treaty waters and are in compliance with and implement the Consent Decree and the Management Plan.

SECTION III. DEFINITIONS.

The following terms have the meanings indicated:

(a) "**1836 Treaty waters**" means all waters of Lake Huron, Lake Michigan, LakeSuperior, and connecting waters, which are within the area ceded in Article First of the Treaty of March 28, 1836, 7 Stat. 491.

(b) "**Break wall**" means a man-made barrier that breaks the force of waves, as before a harbor.

(c) "**BSD**" means Biological Services Division, which is the biological staff of CORA.

(d) "**Commercial fishing**" means a fishing activity engaged in for the purpose of sale of fish or parts of fish.

(e) "**Consent Decree**" means the Consent Decree entered in United States v. Michigan, W.D. Mich. Case No. 2:73 CV 26 on August 8, 2000, including any future modifications made by the Court.

(f) "**CORA**" means the Chippewa Ottawa Resource Authority, an organization formed by the Tribes which has been delegated certain management and regulatory authority, including the authority to promulgate these Regulations.

(g) "**Director**" means the Director of the BSD.

(h) "**Enforcement Officer**" means:

(1) any conservation officer or game warden of a Tribe; or

(2) any conservation officer of the Michigan Department of Natural Resources; or

(3) any enforcement agent of the Bureau of Indian Affairs or the United States Fish and Wildlife Service authorized to enforce the provisions of Title 25, Code of Federal Regulations, Part 249; or

(4) any person authorized by a Tribe's ordinance to enforce these Regulations, including enforcement officers of the Great Lakes Indian Fish and Wildlife Commission if authorized by ordinance of a Tribe; or

(5) any other person authorized by CORA to enforce these Regulations.

(i) "**Fishing**" or "**fishing activity**" means fishing for, catching, or taking any species of fish, or attempting to fish for, catch, or take any species of fish from 1836 Treaty waters, including all related activities which occur in or on the water or ice, until such time as the vessel or vehicle is moored, tied up, or grounded.

(j) "**Gill net**" means a wall of webbing held vertically in the water by weights and floats, and designed to capture fish by means of entanglement.

(k) "**GLRC**" means the Great Lakes Resources Committee, the committee of CORA charged with promulgating these Regulations and making other management decisions concerning Tribal fishing in the 1836 Treaty waters.

(l) "**Grid**" means a geographical unit based on ten (10) minutes of latitude by ten (10) minutes of longitude and commonly used by Tribal, State, provincial, and federal governments for reporting fishery statistics. For the purpose of these Regulations, the area of a grid shall include only those portions of a grid that are within the boundaries of the State of Michigan and the 1836 Treaty waters.

(m) "**Impoundment net**" means a net designed to capture fish by deflection and to retain them in a live condition until removed (e.g., trap, pound, fyke, or hoop nets, etc.).

(n) "**Large mesh gill net**" means a gill net having a diagonal stretch mesh measurement of four and one-half (4.5) inches or greater.

(o) "**Management Plan**" means the *Management Plan for the 1836 Treaty Great Lakes Waters* adopted by the Tribes and attached to the Consent Decree as Appendix B, including any future changes adopted in accordance with the Management Plan and the Consent Decree.

(p) "**Maps**" means the attached maps of 1836 Treaty waters which depict various types of zones, management units, refuges, and other areas defined in these Regulations.

(q) "**Mile**" means statute mile.

(r) "**Pier**" means a permanent man-made structure built for use by the public extending from land out over the water.

(s) "**Recreational fishing**" means fishing activity conducted in accordance with Section XVII of these Regulations.

(t) "**Regulations**" or "**these Regulations**" means the provisions of this document, including any subsequent modifications or amendments and, for jurisdiction and enforcement purposes, any Tribal regulations adopted in accordance with Section XXIV and any order of the Director issued under Section XXV.

(u) "**Round weight**" means the total weight in pounds of fish prior to any form of processing, dressing, or eviscerating, and includes the weight of the head, entrails, and skin.

(v) "**Seine**" means a net used to enclose fish when its ends are pulled together and are drawn to shore or to a vessel.

(w) "**Small mesh gill net**" means a gill net having a diagonal stretch mesh measurement of two and one-half (2.5) through three (3.0) inches.

(x) "**Subsistence fishing**" means a Treaty fishing activity solely to provide fish for

personal or family consumption and not for sale or exchange, but does not include recreational fishing.

(y) "**Trap net**" means an impoundment net consisting of a lead, heart, tunnel, and pot or crib, the webbing of which is held on the lake bottom by leads and upright in the water by floats and held in place by anchors.

(z) "**Tribes**" (or individually, "**Tribe**") means the five (5) Tribes who are members of CORA: the Bay Mills Indian Community ("Bay Mills"), Grand Traverse Band of Ottawa and Chippewa Indians ("Grand Traverse"), Little River Band of Ottawa Indians ("Little River"), Little Traverse Bay Bands of Odawa Indians ("Little Traverse"), and Sault Ste. Marie Tribe of Chippewa Indians ("Sault Tribe").

(aa) "**Unattended nets**" means nets which have been tagged by an enforcement officer as such for at least four (4) days, except when fishing through the ice, which the fisher refuses to tend upon reasonable notice from an enforcement officer, or nets which contain entirely decayed fish.

PART TWO: ZONES

SECTION IV. COMMERCIAL FISHING ZONES.

Subject to the provisions of these Regulations, including its closures and restrictions, the following waters are open to Tribal commercial fishing by members of one or more of the Tribes:

(a) The tribal zones described in Section V.

(b) The intertribal zones described in Section VI.

(c) The trap net zones described in Section VII.

SECTION V. TRIBAL ZONES.

(a) General Provisions. Tribal zones are established as provided in this Section. Except as may otherwise be provided in the Consent Decree or the Management Plan, and subject to these Regulations, each Tribe, within all or any portion of its tribal zone, may prohibit commercial fishing or subsistence fishing by fishers from other Tribes, or allow commercial or subsistence fishing by members of other Tribes by issuance of permits to such fishers. Permits may impose restrictions on commercial fishing in the Tribe's tribal zone by fishers from other Tribes that are in addition to or more restrictive than those contained in these Regulations. The following fishing activities are prohibited in tribal zones:

(1) Fishing in the tribal zone of a Tribe when such activity has been prohibited by that Tribe.

(2) Fishing in the tribal zone of a Tribe without a permit from that Tribe when such permit is required.

(3) Fishing in the tribal zone of a Tribe in violation of any permit condition or regulation imposed by that Tribe.

(b) Little Traverse Tribal Zone.

(1) Description: Lake Michigan grids 517 through 519, the southeast quarter (SE¼) of grid 314, and the south half (S½) of grid 415.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Commercial fishing in grid 518 shall be:

(A) Open to trap net fishing year round;

(B) Closed to large mesh gill net fishing except as follows:

a. From October 1 through April 30 west of a line running from Townline Road on the south to the Stuttsmanville Road tower on the

north; and

b. From May 1 through September 30 west of a line from Nine Mile Point on the south to Seven Mile Point on the north.

(ii) Large mesh gill net operations in the south half (S½) and northeast quarter (NE¼) of grid 517 and that portion of grid 518 in which large mesh gill net commercial fishing is permitted shall not exceed 12,000 feet of large mesh gill net in the water at any time.

(iii) Fishing for yellow perch in the portion of grid 518 described in Section XIV(a)(4) is permitted subject to the provisions of Section XIV.

(c) Grand Traverse Tribal Zone.

(1) Description: Lake Michigan grids 615, 616, 712 through 716, 812 through 816, 911 through 916, 1011, and the south half (S½) of grid 614.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Trap net operations. This zone is open to trap net operations year round except for grids 915 and 916.

(ii) Large mesh gill net operations:

(A) Grids 615, 616, 715, 716, the south half (S½) of grid 614, and the northern portion of grids 815 and 816 extending one (1) mile south from their northern boundary shall be open year round to large mesh gill net fishing.

(B) Grids 712 and 713 shall be open to large mesh gill net fishing from the day after Labor Day through June 15.

(C) Grid 714 shall be open to large mesh gill net fishing from the day after Labor Day through April 30.

(D) In grids 712, 713, and 714, large mesh gill nets shall be set at depths of thirty (30) feet or deeper from January 1 through April 30 and from the day after Labor Day through September 30, except when fishing for salmon pursuant to Section XII(b).

(E) In addition to the provisions of sub. (D), above, in grids 712 and 713, large mesh gill nets shall be set at depths of fifty (50) feet or less from May 1 through June 15.

(iii) Small mesh gill net operations:

(A) This zone shall be open to small mesh gill net fishing for chubs year round, except that grids 915, 916, and the portion of grids 815 and 816 south of a line one (1) mile south of their northern boundary are closed to all small mesh gill net fishing.

(B) Grids 615, 712, 713, 714, 715 [except for that portion described in Section XIII(a)(1)(i)], 716, and the south half (S½) of grids 614 and 616 shall be open year round to small mesh gill net fishing for yellow perch and walleye.

(d) Little River Tribal Zone.

(1) Description: Lake Michigan grids 1107 through 1111, 1207 through 1211, 1306 through 1310, and 1406 through 1410.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Trap Net Operations. This zone and that portion of the Lake Michigan Southern Development Zone [see Section VI(c)] which is within whitefish

management unit WFM-07 shall be open to up to two (2) Tribal trap net operations, not exceeding twelve (12) nets each. Trap net fishing by any Tribal fisher not authorized to fish by Little River in such waters is prohibited.

(ii) Small Mesh Gill Net Operations. This zone and that portion of the Lake Michigan Southern Development Zone [see Section VI(c)] which is within whitefish management unit WFM-07 shall be open to fishing up to two (2) Tribal small mesh gill net operations, not exceeding 24,000 feet of net each. Small mesh gill net fishing by any Tribal fisher not authorized to fish by Little River in such waters is prohibited.

(iii) Commercial fishing with large mesh gill nets is prohibited in this zone.

(e) Bay Mills Small Boat Zone.

(1) Description: Those portions of Lake Huron grids 505 and 506 which lie south of a line from Hammond Bay Harbor buoy to the northeast corner of grid 506.

(2) Regulations. Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Commercial fishing shall be restricted to October 1 through December 31, and subject to a spawning closure as described in Section IX(g).

(ii) Effort shall be limited to no more than ten (10) small boats (twenty six [26] feet or less) fishing a maximum of 6,000 feet of large mesh gill net per boat. This limitation includes any boat used for assessment purposes. Fishing by any Tribal fisher not authorized to fish by Bay Mills is prohibited.

(iii) Except as may be authorized for assessment fishing, nets must be set in water seventy-five (75) feet deep or less.

(iv) All live lake trout shall be released.

(v) Commercial fishing by Sault Tribe fishers is prohibited in this zone.

(f) Sault Tribe Tribal Zone.

(1) Description: Those portions of Lake Huron within one (1) mile from shore and delineated by the following landmarks:

(i) St. Martin's Bay zone - from Rabbit Back Point north and east to Brulee Point.

(ii) Cordwood Point zone - from Cordwood Point south to a point one half (0.5) mile north of the Hammond Bay harbor light.

(2) Regulations. Subject to the provisions of these Regulations, the following regulations apply in this zone:

(i) The waters described in sub. (1), above, shall be the Sault Tribe Tribal Zone only during the salmon seasons set forth in Section XII(c)(2). At all other times, these waters shall be part of the Northern Lake Huron Inter-Tribal Fishing Zone. See Section VI(d).

(ii) Other restrictions applicable to this zone are set forth in Section XII(c).

(iii) Commercial fishing for salmon by Bay Mills fishers is prohibited in the portion of this zone described in sub. (1)(ii), above.

SECTION VI. INTERTRIBAL ZONES.

(a) Northern Lake Michigan Inter-Tribal Fishing Zone.

(1) Description: Lake Michigan grids 115 through 118, 211 through 220, 310 through 320, 409 through 419, 509 through 516, 613, and the north half (N½) of 614, except for the southeast quarter (SE¼) of grid 314 and the south half (S½) of grid 415.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) This zone shall be open to fishers from all Tribes.

(ii) Fishers from Bay Mills, Little River, and Sault Tribe shall be limited to four hundred (400) pounds round weight of lake trout per vessel per day caught within the following grids: Lake Michigan grids 315, 316, 317, 318, 319, 320, 417, 418, 419, and the north half (N½) of grids 313, 314, and 415.

(iii) Each Tribal trap net operation shall be limited to twelve (12) trap nets in the water at any one time within the following grids: 313, 314, 315, 316, 317, 318, 319, 320, 413, 414, 415, 416, 417, 418, and 419.

(b) Lake Michigan Northern Development Zone.

(1) Description: Lake Michigan grids 610 through 612, 709 through 711, 808 through 811, 908 through 910, and 1008 through 1010.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Grids 711, 811, 910, and 1010 shall be open to Grand Traverse trap net operations targeting whitefish; provided, that the aggregate net effort shall not exceed twelve (12) nets in the water at any one time.

(ii) Except as provided in sub. (i), above, tribal commercial fishing in this zone shall be limited to a permit fishery targeting bloater chubs.

(iii) Tribal commercial fishing for all other species is prohibited.

(c) Lake Michigan Southern Development Zone.

(1) Description: All 1836 Treaty waters of Lake Michigan south of the northern

boundary of the 1500 tier of grids.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Trap Net Operations. The portion of this zone that is within whitefishmanagement unit WFM-08 shall be open to one (1) Tribal trap net operation, not to exceed twelve (12) nets. Trap net fishing by any Tribal fisher not authorized to fish by Little River in such waters is prohibited.

(ii) Small Mesh Gill Net Operations: The portion of this zone that is within whitefish management unit WFM-08 shall be open to one (1) Tribal operation not exceeding 24,000 feet of net. Small mesh gill net fishing by any Tribal fisher not authorized to fish by Little River in such waters is prohibited.

(iii) Commercial fishing with large mesh gill nets is prohibited in this zone.

(iv) This zone shall be managed and regulated in the same manner as the Little River Tribal Zone in accordance with Section V(a).

(d) Northern Lake Huron Inter-Tribal Fishing Zone.

(1) Description: Lake Huron grids 202, 207 through 209, 301 through 309, 401through 410, 504, and those portions of grids 505 and 506 which lie north of a line from Hammond Bay Harbor buoy to the northeast corner of grid 506, except for those portions of grids 303 and 304 closed to all commercial fishing as described in Section VIII(e).

(2) Regulations: Subject to the provisions of these Regulations, the following regulations shall apply in this zone:

(i) Except as provided in sub. (iii), below, this zone shall be open to fishers from all Tribes.

(ii) The area described in Section VIII(f) shall be closed to commercial fishing beginning the Friday before Memorial Day through Labor Day.

(iii) The following restrictions apply to large mesh gill net operations in that portion of Lake Huron grids 505 and 506 that lies north of the line described in sub. (1), above:

(A) Effort shall be restricted to a maximum of 8,500 feet of net per vessel; and

(B) Fishing shall be limited to depths of seventy-five (75) feet or deeper from the Friday before Memorial Day through Labor Day.

(e) Lake Superior Inter-Tribal Fishing Zone.

(1) Description: All Lake Superior water east of the western edge of grids 934, 1034, 1134, 1234, 1334, 1434, 1534, and 1634.

(2) This zone shall be open to fishers from all Tribes subject to the provisions of these Regulations.

SECTION VII. TRAP NET ZONES.

(a) Bay de Noc Trap Net Zone.

(1) Description: Lake Michigan grids 306, 308, 309, 406 through 408, and 506 through 508.

(2) Regulations: Subject to the provisions of these Regulations, the following regulations apply in this zone:

(i) All Tribal commercial and subsistence fishing is prohibited west of a line extending from the mouth of the Escanaba River in Delta County due east to the center of the shipping channel, thence due south to the Michigan-Wisconsin

border.

(ii) Except as provided in sub. (v), below, Tribal commercial fishing by any method other than trap nets is prohibited.

(iii) Each trap net operation may set no more than fifteen (15) trap nets at any one time.

(iv) Little Traverse may locate one (1) trap net operation within this zone, and the remainder of the trap net operations shall be Sault Tribe fishers. Commercial fishing with trap nets by fishers from any other Tribe, or by fishers from Little Traverse or Sault Tribe who have not been authorized to fish in this zone by their Tribe, is prohibited.

(v) Notwithstanding the above, fishing for yellow perch in the portion of grid 508 described in Section XIV(a)(2) is open to all Tribes in accordance with Section XIV.

(b) Southern Lake Huron Trap Net Zone.

(1) Description: Lake Huron grids 507 through 512, 606 through 611, 709, and those portions of grids 612, 613, 710, 711, and 810 which are north of a line from the mouth of the Thunder Bay River in a straight line northeast through the northeast corner of grid 711 to the international border.

(2) Regulations: Subject to the other provisions of these Regulations, the following regulations apply in this zone:

(i) Except as provided in sub. (v), below, Tribal commercial fishing by any method other than trap nets shall be prohibited.

(ii) Trap net fishing in this zone shall be open only to Bay Mills and Sault Tribe trap net fishers by permit. Trap net fishing by fishers from Grand Traverse, Little River, and Little Traverse is prohibited. The permits shall be allocated

equally between Bay Mills and Sault Tribe. If a Tribe has insufficient fishers interested in the permits allocated to it, the excess permits shall be made available for issuance by the other Tribe.

(iii) A total of four (4) trap net operations shall be authorized for this zone. Trap net fishing by fishers from Bay Mills and Sault Tribe who have not been authorized by their Tribe to fish in this zone is prohibited.

(iv) Each trap net operation may set no more than twelve (12) trap nets at any one time within the zone.

(v) Fishing for chubs with small mesh gill nets or small mesh trap nets shall be authorized only by permit issued by CORA. Such permits shall be available to fishers from any Tribe.

(vi) Bay Mills and Sault Tribe may authorize the Tribal fishers permitted to fish with trap nets in this zone to obtain permits from the State to fish with trap nets in those waters within the State of Michigan south of the southern boundary of this zone and north of a line from the tip of North Point on Thunder Bay in a straight line northeast parallel to the southern boundary of this zone to the international border. The aggregate net effort allowed by all such permits shall not exceed sixteen (16) nets.

(c) Western Lake Superior Trap Net Zone.

(1) Description: All 1836 Treaty waters west of the western edge of grids 934, 1034, 1134, 1234, 1334, 1434, 1534, and 1634.

(2) Tribal commercial fishing by any method other than trap nets is prohibited.

SECTION VIII. CLOSED OR LIMITED FISHING ZONES.

Except as otherwise provided in this section, Tribal commercial fishing is prohibited in the

following areas:

(a) The St. Mary's River, east of a line extending from Point Aux Pins, Ontario, to Brush Point, Michigan, downstream to the Detour - Drummond Island ferry docks, including all of Potagannissing Bay from Hay Point (Drummond Island) west to Cherry Island and north to the international boundary.

(b) Lake Michigan grid 519 in Little Traverse Bay.

(c) Lake Michigan grids 915 and 916 in Grand Traverse Bay.

(d) Those portions of Lake Michigan grid 306 that lie within 1836 Treaty waters and north of a line from the mouth of the Ford River to Peninsula Point.

(e) Those portions of Lake Huron grids 303 and 304 described as follows: The Les Cheneaux channels, or entrances thereto, or waters adjacent thereto within a line drawn as follows: beginning at the southernmost point of land on the westerly side of McKay Bay; then southerly in a straight line to the northernmost point of Boot Island; then along the eastern shore of Boot Island to its southernmost point; then along the south shoreline of Boot Island to its westernmost point; then westerly in a straight line to the southernmost point of Government Island; then along the shoreline of Government Island to the point at which the distance between said island and LaSalle Island is the least, then westerly in a straight line to LaSalle Island; then along the eastern and southern shoreline of LaSalle Island to the point at which the distance between said island and Little LaSalle Island is the least; then westerly in a straight line to Little LaSalle Island; then westerly along the southern shoreline of Little LaSalle Island to its westernmost point; then westerly in a straight line to the eastern shore of Marquette Island; then along the southwestern shore of Marquette Island to Coats Point; then northwesterly to the southernmost part of Brulee Point, except that trap net fishing targeting whitefish shall be permitted in that portion of Lake Huron grid 303 within the area encompassed by a line from Coats Point on Marquette Island along the western shore of said island to Cube Point; then due west to the shore of Brulee Point; then southeasterly along said shore to the southern tip of Brulee Point; then southeasterly to Coats Point on Marquette Island.

(f) For the period from the Friday before Memorial Day through Labor Day only, those

portions of Lake Huron grids 304 and 305 north of a line beginning at the southerly point of land on the easterly side of Dudley Bay (Cadogan Point); then running southwesterly in a straight line to the southeasterly end of Beaver Tail Point; then running westerly in a straight line to the southeasterly end of Whitefish Point in Mackinac County.

(g) Any area within one hundred (100) yards of any break wall or pier; provided, that this prohibition shall not apply to salmon fishing authorized by these Regulations.

(h) Any area within three-tenths (0.3) mile radius of the mouth of the following streams; provided, that this prohibition shall not apply to salmon fishing authorized by these Regulations:

(1) Lake Superior.

(i) Marquette County: Chocolay River and Sand River;

(ii) Alger County: Laughing Whitefish River, Autrain River, Anna River, Mosquito River, Seven Mile Creek, and Hurricane River;

(iii) Luce County: Blind Sucker River, Big Two Hearted River, and Little Two Hearted River; and

(iv) Chippewa County: Tahquamenon River and Pendills Creek.

(2) Lake Huron.

(i) Mackinac County: Nunns Creek, Pine River, and Carp River;

(ii) Cheboygan County: Cheboygan River;

(iii) Presque Isle County: Ocqueoc River, Swan River, and Grand Lake Outlet;

(iv) Alpena County: Thunder Bay River.

(3) Lake Michigan.

(i) Delta County: Escanaba River, Days River, Tacoosh River, Rapid River, Whitefish River, Ogontz River, Sturgeon River, Big Fishdam River, and Little Fishdam River;

(ii) Schoolcraft County: Thompson Creek, Manistique River, and Milakokia River;

(iii) Mackinac County: Crow River, Millecoquins River, Black River, Paquin Creek, Cut River, and Brevort River;

(iv) Emmet County: Carp Lake River and Bear River;

(v) Charlevoix County: Pine River;

(vi) Antrim County: Elk River;

(vii) Grand Traverse County: Boardman River;

(viii) Leelanau County: Leland River;

(ix) Benzie County: Platte River and Betsie River;

(x) Manistee County: Arcadia Lake Outlet, Portage Lake Outlet, and Manistee River;

(xi) Mason County: Pere Marquette River;

(xii) Oceana County: Pentwater Lake Outlet, Silver Creek, and Stoney Creek;

(xiii) Muskegon County: White River and Muskegon River; and

(xiv) Ottawa County: Grand River.

(i) The following provisions for harbor closures shall apply:

(1) The area within one-half (0.5) mile of the break walls at the Hammond Bay Harbor of Refuge; provided, that in that portion of this closure that lies within the Bay Mills Small Boat Zone described in Section V(e)(1), the closure shall be reduced to three-tenths (0.3) mile during any period in which fishing in that zone is restricted to depths of seventy-five (75) feet or less.

(2) The area within two (2) miles of the break walls at Rogers City.

PART THREE: GEAR

SECTION IX. GEAR RESTRICTIONS.

(a) The following are the only types of gear which shall be permitted for commercial fishing activity:

(1) Large mesh gill nets;

(2) Small mesh gill nets;

(3) Impoundment nets;

(4) Seines; and

(5) Hooks.

(b) Trap nets shall have a four and one-half (4.5) inch (stretch) minimum pot mesh size, except:

(1) Trap nets of four and one-quarter (4.25) inches pot mesh size or greater may be used if they were used within 1836 Treaty waters prior to May 31, 2000.

(2) Small mesh trap nets having a two and one-half (2.5) to three (3.0) inch (stretch) pot mesh size may be used for fishing for yellow perch, chubs, or other appropriate species as authorized by GLRC.

(c) All nets shall be clearly marked at each end with a buoy on the surface, showing the license number of the owner. Commencing in 2002, nets shall be marked as follows:

(1) All gill nets set in depths greater than fifteen (15) feet shall have a staff buoy at each end with at least four (4) feet exposed above the surface of the water with a red or orange flag no less than twelve (12) inches by twelve (12) inches bearing the license number of the fisher and affixed to the top of the staff. Ice poles, painted red or orange on the top and bearing the license number of the fisher, may be used between November 1 and May 31 in Lake Superior waters, and between November 1 and April 30 in all other 1836 Treaty waters.

(2) Any gill net or portion of a gill net set in water less than fifteen (15) feet deep shall have: a red or orange float not less than one (1) gallon in size, or a red or orange PVC float that is at least six (6) inches by fourteen (14) inches in size, on each end that is in water less than fifteen (15) feet deep. The floats at the ends of the net shall bear the license number of the fisher. In addition, each such net shall also have either:

(i) An additional float of the size described above spaced every three hundred (300) feet or less along the length of the net that is in water less than fifteen (15) feet; or

(ii) Standard commercially available fluorescent orange floats at least one and one-half (1.5) inches by four (4) inches in size along the corkline not less than every twelve (12) feet in water less than fifteen (15) feet.

(3) All trap nets must be marked with a staff buoy on the pot with at least four (4) feet exposed above the surface of the water with a red or orange flag no less than twelve (12) inches by twelve (12) inches bearing the license number of the fisher and affixed to the top of the staff. Ice poles, painted red or orange on the top and bearing the license number of the fisher, may be used between November 1 and May 31 in Lake Superior

waters, and between November 1 and April 30 in all other 1836 Treaty waters. From May 1 to November 7, the king anchor and inside end of the lead shall also be marked with a red or orange float not less than one (1) gallon in size.

(d) No Tribal commercial fisher shall use large mesh gill nets with mesh greater than five and one-half (5.5) inches stretch measurement at any time in any 1836 Treaty waters except as follows:

(1) When fishing for salmon under these Regulations; or

(2) When fishing in Lake Superior Lake Trout Management Unit MI-8 using large mesh gill nets that were used in that area prior to May 31, 2000.

(e) The use of any gear, mesh size, or method of capturing fish for commercial purposes not authorized by subs. (a) through (d), above, is prohibited.

(f) Tribal commercial fishing gear shall not be set in a manner which completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty waters.

(g) All commercial fishing with impoundment nets and large mesh gill nets shall be prohibited during the period from 12:00 noon November 6 through 12:00 noon November 29 to protect spawning lake trout and whitefish. Trap nets may remain in the water during this period, but trap net tunnels must be tied closed. During this period, fishing for or retention of whitefish or lake trout caught in any gear is prohibited.

(h) Commercial fishing with small mesh gill nets in six (6) fathoms of water or less shall be prohibited from 12:00 noon October 15 through 12:00 noon November 15.

(i) The use of small mesh gill nets in Lakes Huron and Michigan in waters between fifteen (15) fathoms and forty (40) fathoms is prohibited at all times.

(j) The trap net operations received by Little Traverse as described in section X.A.2.b. of the Consent Decree may also be used for fishing large mesh gill nets for salmon only and for

fishing small mesh gill nets for all permitted species. Large mesh gill net fishing by these operations for any species other than salmon is prohibited.

(k) Possession of a firearm while engaged in fishing activity under these Regulations is prohibited.

(l) Unattended nets may be seized by an enforcement officer and forfeited; provided, that if the nets have been reported to the appropriate Tribe as vandalized or lost prior to seizure, the fisher shall be provided a reasonable opportunity to retrieve the nets.

(m) Floating buoy line on the surface of the water shall not exceed 5' (five feet) in length.

SECTION X. STATE-FUNDED TRAP NET CONVERSION OPERATIONS.

(a) Upon acceptance of a state-funded conversion trap net operation under section X.C. of the Consent Decree, use or possession on the water of large mesh gill nets by a converted Tribal fisher is prohibited, except as provided in sub. (c), below.

(b) Use or possession on the water of small mesh gill nets is prohibited on state-funded conversion trap net vessels, except for the taking of chubs and menominee.

(c) A Tribal fisher who converts to trap nets under section X.C. of the Consent Decree shall not thereafter resume the use of large mesh gill nets except as follows:

(1) Subject to Tribal approval, after two (2) years of use of the trap net operation, the fisher may exchange license and gear with another Tribal licensee who represents at least sixty percent (60%) of the average large mesh gill net effort of the converted fisher during the years 1997 through 1999.

(2) Subject to Tribal approval, a converted fisher may acquire a large mesh gill net operation and license if the fisher has sold his trap net operation and retired from the fishery for a period of two (2) years.

(d) A Tribal fisher who participates in the gill net conversion program under section X.C.

of the Consent Decree may sell his or her trap net operation and transfer the fisher's captain's license as provided under current Tribal regulations. Anyone acquiring such a conversion trap net operation shall be subject to the same restrictions as the original conversion program participant.

(e) Any Sault Tribe fisher who converts to trap nets under the program described in Section X.C. of the Consent Decree and who moves his or her fishing operation to one of the trap net zones described in Section VII(a) or Section VII(b) is prohibited from fishing in the following area for a period of two years after his or her conversion: Lake Michigan grids 313, 314, 315, 316, 317, 318, 319, 320, 413, 414, 415, 416, 417, 418, and 419. Thereafter, the fisher may fish in this area only if GLRC authorizes the fisher to do so.

PART FOUR: SPECIES

SECTION XI. LAKE TROUT.

(a) Lake Trout Refuges.

(1) The following areas shall be lake trout refuges:

(i) In Lake Huron, grids 307 through 309, the north half (N½) of grid 407, and grids 408 through 410.

(ii) In Lake Michigan, two (2) locations:

(A) Grids 413, 414, 513, 514, 515, 516, and 613; the south half (S½) of grids 313, 314, and 415; the north half (N½) of grid 614; and the northwest quarter (NW¼) of grid 517.

(B) Grids 1606, 1607, 1706, 1707, 1806, 1807, 1906, and 1907.

(2) Commercial and subsistence fishing with gill nets is prohibited in any refuge.

(3) Commercial fishing with trap nets is permitted in any refuge, but retention of lake

trout is prohibited.

(4) Retention of lake trout caught by commercial, subsistence, or recreational fishers in any lake trout refuge is prohibited.

(b) Retention of Lake Trout by Tribal Fishers.

(1) In trap net zones identified in Section VII retention of lake trout caught in trap nets is prohibited. All lake trout caught by such fishers shall be returned to the water whether dead or alive.

(2) All Tribal trap net fishers who have converted their operations to trap net operations at the expense of the State of Michigan, either as part of the gill net conversion program described in section X.C. of the Consent Decree or through any supplemental conversion program instituted while the Consent Decree is in effect, are prohibited from retaining lake trout. All lake trout caught by such fishers shall be returned to the water whether dead or alive.

(3) A lake trout bag limit not to exceed one hundred (100) pounds round weight per vessel per day shall apply to all other Tribal trap net fishers. No lake trout under seventeen (17) inches long shall be retained.

(4) All live lake trout less than seventeen (17) inches long caught by Tribal gill net fishers shall be released. No more than fifteen (15) pounds round weight per vessel per day of undersized lake trout shall be retained by Tribal gill net fishers. Undersized lake trout shall not be offered for sale.

SECTION XII. SALMON.

Subject to the other provisions of these Regulations, salmon fishing is authorized as provided in this section.

(a) Little Traverse Salmon Fishery. A limited entry permit salmon fishery in Lake Michigan for Little Traverse fishers is authorized subject to the following restrictions:

(1) Salmon fishing by Little Traverse fishers shall be permitted within one (1) mile from shore from Seven Mile Point in grid 518 north to McGulpin Point in grid 320, from 12:00 a.m. August 1 through 6:00 p.m. October 15.

(2) Nets may be fished at the surface in this fishery from 12:00 a.m. September 10 through 6:00 p.m. October 15. At all other times during the salmon season in this salmon fishery, nets shall be set at least eight (8) feet below the surface.

(b) Grand Traverse Salmon Fishery. A salmon fishery in Lake Michigan for Grand Traverse fishers is authorized subject to the limitations of this subsection:

(1) Salmon fishing shall be permitted from 12:00 a.m. September 15 through 6:00 p.m. October 30 in grid 615, the south half (S½) of grid 614, and in that portion of grid 714 which is north of an east-west line commencing three-tenths (0.3) mile north of mouth of the Leland River.

(2) Salmon fishing shall be permitted from 12:00 a.m. the day after Labor Day through 6:00 p.m. October 30 in those portions of grids 715 and 815 within the boundaries of a line from the tip of Omena Point to buoy *N"2"* off Omena Point, then to buoy *C"1"* off Stony (Suttons) Point, and then due west to the intersection with the Leelanau Peninsula.

(c) Lake Huron Salmon Fishery. A salmon fishery in Lake Huron shall be authorized subject to Section V(f) and the limitations of this subsection:

(1) Fishing for salmon by the Tribal commercial fishers is limited to the Sault Tribe Tribal Zone described in Section V(f)(1).

(2) Salmon fishing shall be permitted from 12:00 a.m. August 1 through 6:00 p.m. October 15 in the St. Martin's Bay zone, and from 12:00 a.m. September 10 through 6:00 p.m. October 15 in the Cordwood Point zone.

(3) Nets may be fished at the surface at any time during the specified salmon seasons in the areas described in subs. (1) and (2), above.

(d) Except as provided in subs. (1), (2), and (3), above, commercial fishing for salmon is prohibited, except the for incidental harvest allowed in sub. (e), below.

(e) Retention of more than two hundred (200) pounds round weight per vessel per day of salmon caught as incidental catch in gill nets in waters and seasons not open to salmon fishing is prohibited.

(f) Retention of salmon caught in trap nets is prohibited. All salmon caught in trap nets must be returned to the water whether dead or alive.

(g) Net Marking. Salmon nets shall be marked in accordance with the following:

(1) Each gang of salmon nets shall be marked at each end with a staff buoy which extends a minimum of five (5) feet above the surface and which:

(i) is at least fifty percent (50%) reflective orange in color;

(ii) has affixed to the top one orange flag twelve (12) inches by twelve (12) inches in size; and

(iii) has affixed the license number of the fisher.

(2) Each gang of nets shall have attached along the top edge of the net orange PVC floats which are at least six (6) inches by fourteen (14) inches in size and which are evenly spaced along the length of the gang at intervals of not more than three hundred (300) feet of net.

(h) Salmon nets shall be set in a manner that permits reasonable ingress and egress by shoreline residents.

SECTION XIII. WALLEYE.

(a) Walleye Fishing Areas. Tribal commercial fishing for walleye is permitted in the following locations, subject to the restrictions in this section and the other provisions of these Regulations:

(1) Lake Michigan grids 116, 117, 118, 218, 219, 615, 712, 713, 714, 715, 716, and the south half (S½) of grids 614 and 616, subject to the following restrictions:

(i) The area in grid 715 north and west of a line from the tip of Northport Point in a direct line to *R"2" Bell* buoy off Northport Point, then due west to the shore, is closed to walleye fishing except from March 16 through April 23. Fishing for walleye during this period shall be limited to depths of twenty (20) feet or less using impoundment nets. All yellow perch shall be returned to the water dead or alive.

(ii) Small mesh gill nets shall be limited to two and three-quarters (2.75) to three (3.0) inch stretch measure in the north half (N½) of grid 715 outside of the area described in sub. (I), above.

(iii) Small mesh gill nets shall not be set in waters greater than ninety (90) feet deep in grids 712, 713, and 714.

(iv) Small mesh gill nets shall not be set in waters less than twenty (20) feet deep or greater than ninety (90) feet deep in grids 615 and 716, the south half (S½) of grids 614 and 616, and the portion of grid 715 outside the area described in sub. (I), above.

(v) Nets set for walleye in grids 712, 713, 714, 715, 716, 615, and the south half (S½) of grids 614 and 616 shall be no more than six (6) feet in height and shall be set with the lead line on the bottom of the lake.

(vi) Grids 615, 712, 713, 714, 715, 716, and the south half (S½) of grids 614 and 616 are within the Grand Traverse Tribal Zone and subject to additional restrictions applicable to that zone.

(2) Lake Huron grids 202, 301 through 306, and 401 through 403, except for those portions of grids 303 through 305 described in Section VIII(e) and seasonally as provided in Section VIII(f).

(3) Lake Superior grid 1646.

(b) Except as provided in sub. (a), above, and subs. (c) and (d), below, Tribal commercial fishing for walleye is prohibited.

(c) Possession of more than fifteen (15) pounds round weight of walleye per vessel per day caught in all 1836 Treaty waters not identified in sub. (a), above, is prohibited.

(d) Possession of more than fifteen (15) pounds round weight of walleye per vessel per day caught in the 1836 Treaty waters identified in sub. (a), above, during a closed season specified in this section is prohibited.

(e) In order to protect walleye spawning stocks, the following shall apply to Tribal commercial fishers in those waters in which walleye commercial fishing is permitted:

(1) Except as provided in sub. (A)(1)(i), above, in Lakes Michigan and Superior, fishing for walleye is prohibited during the period from 12:00 noon March 15 through 12:00 noon May 1.

(2) In Lake Huron, fishing for walleye is prohibited during the period from 12:00 noon March 15 through 12:00 noon May 15.

(f) Walleye less than fifteen (15) inches long caught in impoundment nets shall be returned to the water dead or alive. Possession of more than fifteen (15) pounds round weight of walleye less than fifteen (15) inches long captured in gill nets is prohibited. No undersized walleye shall be offered for sale.

(g) Retention of walleye caught in the trap net zones identified in Section VII is prohibited. All walleye caught in the trap net zones shall be returned to the water dead or alive.

SECTION XIV. YELLOW PERCH.

(a) Yellow Perch Fishing Areas. Subject to the other provisions of these Regulations and the restrictions contained in this section, the following waters are open to Tribal commercial fishing targeting yellow perch:

(1) Lake Michigan grids 116, 117, 118, 218, 219, 615, 712, 713, 714, 715, 716, and the south half (S½) of grids 614 and 616, subject to the following restrictions:

(i) The area in grid 715 north and west of a line from the tip of Northport Point in a direct line to *R"2" Bell* buoy off Northport Point, then due west to the shore, is closed to commercial fishing for yellow perch.

(ii) Small mesh gill nets shall be limited to two and three-quarters (2.75) to three (3.0) inch stretch measure in the north half (N½) of grid 715 outside of the area described in sub.(I), above.

(iii) Small mesh gill nets shall not be set in waters greater than ninety (90) feet deep in grids 712, 713, and 714.

(iv) Small mesh gill nets shall not be set in waters less than twenty (20) feet deep or greater than ninety (90) feet deep in grids 615 and 716, the south half (S½) of grids 614 and 616, and the portion of grid 715 outside the area described in sub. (I), above.

(v) Nets set for yellow perch in grids 712, 713, 714, 715, 716, 615, and the south half (S½) grids 614 and 616 shall be no more than six (6) feet in height and shall be set with the lead line on the bottom of the lake.

(vi) Grids 615, 712, 713, 714, 715, 716, and the south half (S½) of grids 614 and 616 are within the Grand Traverse Tribal Zone and subject to additional restrictions applicable to that zone.

(2) The northeast quarter (NE¼) of Lake Michigan grid 508, and a narrow strip of

water along the eastern part of the northwest quarter (NW¼) of grid 508 near St. Martins Island and described as follows: commencing at the eastern shore of St. Martins Island at forty-five degrees thirty minutes (45° 30') north latitude; then southward along the shore of St. Martins Island to its southernmost tip; then due south to the intersection of the Michigan-Wisconsin border; then southeastward to the intersection with the eighty-six degrees forty minutes (86° 40') west longitude; then northward along said longitude to the intersection with forty-five degrees thirty minutes (45° 30') north latitude; then westward along said latitude to the point of beginning.

(3) Lake Michigan grids 315 to 319 and that portion of grid 320 west of McGulpin Point except:

(i) St. James Harbor west of eighty-five degrees thirty minutes (85° 30') west longitude; and

(ii) In grid 318, that part east of a line from the westernmost tip of Waugoshance Point to the southeast corner of the grid.

(4) The portions of Lake Michigan grids 418 and 518 described as follows: the area bounded by a line from the church spire at Middle Village southward to a line running from Townline Road on the south to the Stuttsmanville Road tower to the north; then south along that line a distance of three (3) miles; then along a line paralleling the shore and three (3) miles from the shore to a point due west of the church spire at Middle Village; then east to the shore. The portion of this area that is within grid 518 is within the Little Traverse Tribal Zone and is subject to additional restrictions applicable to that zone. The portion of this area in grid 418 shall be open to fishers from other Tribes as determined by Little Traverse in its discretion.

(5) Lake Huron grids 202, 301 through 306, and 401 through 403, except for those portions of grids 303 through 305 closed to tribal commercial fishing under Section VIII(e) and seasonally as provided in Section VIII(f).

(6) Lake Superior grid 1646.

(b) Seasonal Closures. The following seasonal closures shall apply to Tribal commercial fishing for yellow perch:

(1) In order to protect yellow perch spawning stocks, fishing for yellow perch is prohibited during the period from 12:00 noon April 1 through 12:00 noon May 15 in those waters in which fishing for yellow perch is permitted.

(2) In Lake Michigan, the north half (N½) of the southwest quarter (SW¼) of grid 316 shall be closed to yellow perch fishing from and including the Friday before Memorial Day through Labor Day;

(3) In grid 318 in Lake Michigan, the area east of a line from the westernmost tip of Waugoshance Island to the southeast corner of grid 318 shall be closed to yellow perch fishing from and including December 1 through March 31.

(c) Yellow perch fishing in the waters described in sub. (a)(3), above, shall be subject to the following restrictions:

(1) Until 2006, Little Traverse fishers only are allowed to fish for yellow perch in this area in connection with a yellow perch assessment fishery conducted under the direction of the TFC. All other fishing for yellow perch in this area is prohibited.

(2) Yellow perch fishing shall be pursued in water depths between twenty (20) and ninety (90) feet.

(3) Nets set for yellow perch shall be no more than six (6) feet in height and shall be set with the lead line on the bottom of the lake.

(d) Except as provided in sub. (a), above, and subs. (e) and (f), below, commercial fishing for yellow perch is prohibited.

(e) Possession of more than fifteen (15) pounds round weight of yellow perch per vessel per day caught in all 1836 Treaty waters not identified in sub. (a), above, is prohibited.

(f) Possession of more than fifteen (15) pounds round weight of yellow perch per vessel per day caught in the 1836 Treaty waters identified in sub. (a), above, during a closed season specified in this section is prohibited.

(g) Yellow perch less than eight (8) inches long caught in impoundment nets shall be returned to the water dead or alive. Possession of more than fifteen (15) pounds round weight of yellow perch less than eight (8) inches long captured in gill nets is prohibited. No undersized yellow perch shall be offered for sale.

(h) Except as provided in sub. (a)(2), above, retention of yellow perch caught in the trap net zones identified in Section V is prohibited. All yellow perch caught in the trap net zones shall be returned to the water dead or alive.

SECTION XV. OTHER SPECIES.

(a) The commercial harvest of lake trout, salmon, walleye, yellow perch, whitefish, bloater chubs, menominee, lake herring, and any other species is authorized unless specifically prohibited in Section XVI.

(b) Whitefish. Whitefish less than seventeen (17) inches long shall be returned to the water immediately if alive. Possession of more than fifty (50) pounds round weight of undersized whitefish is prohibited. No undersized whitefish shall be offered for sale.

(c) Lake Herring. In order to protect lake herring spawning stocks, the following shall apply to Tribal commercial fishers during the period from 12:00 noon November 15 through 12:00 noon December 15:

(1) Fishing for lake herring is prohibited.

(2) Possession of more than four hundred (400) pounds round weight of lake herring is prohibited.

SECTION XVI. PROHIBITED SPECIES.

(a) The following fish species shall not be targeted for harvest or offered for sale or exchange when taken as bycatch during commercial fishing activities: muskellunge (except in Lake Michigan), splake, brown trout, brook trout, rainbow (steelhead) trout, Atlantic salmon, largemouth and smallmouth bass, and northern pike. Retention of such species when taken as bycatch during commercial trap net fishing is prohibited. Retention of more than twenty-five (25) pounds round weight per vessel per day of such species as bycatch during commercial gill net fishing is prohibited.

(b) The following fish species shall not be targeted for harvest or offered for sale or exchange when taken as a bycatch during commercial fishing, and any catch shall immediately be returned to the water if alive or, if not alive, shall be turned in to the BSD, Tribal biological staff, or the nearest Michigan Department of Natural Resources field office and shall not be retained in possession: lake sturgeon, muskellunge (Lake Michigan only), and any fish species listed as threatened or endangered under the Federal Endangered Species Act.

PART FIVE: NON-COMMERCIAL FISHING

SECTION XVII. RECREATIONAL FISHING.

Tribal members may engage in recreational fishing in the 1836 Treaty waters subject to the bag limits, seasons, size limits, closed areas, and gear and method restrictions applicable to recreational fishers licensed by the State of Michigan. Tribal members engaged in recreational fishing must have a Tribal membership identification card in their possession, but no further license is required.

SECTION XVIII. TRIBAL CHARTER BOAT OPERATIONS.

(a) Any Tribe which authorizes or conducts a charter boat operation shall adopt safety inspection standards for its charter operations substantially similar to those that exist under current State law for vessels carrying passengers for hire.

(b) Customers of Tribal charter operations who are not members of one of the Tribes shall be subject to applicable State law including, but not limited to, licensing requirements, rod limits, size and bag limits, daily possession limits, and seasons.

(c) Any Tribal charter boat operation shall report its charter boat harvest, including the number and weight of species caught by recreational fishers, and areas fished, to the State in accordance with provisions applicable to state-licensed charter boat operations.

SECTION XIX. SUBSISTENCE FISHING.

(a) The following are permitted gear for tribal subsistence fishing activity: impoundment gear, hooks, spears, bow and arrow, artificial lights, seines, dip nets, and a single large mesh or small mesh gill net as regulated in this section.

(b) Each gang of gill nets or impoundment nets used in subsistence fishing activity shall be marked at each end with an orange float equivalent to at least a one (1) gallon jug in size bearing the Tribal ID number of the subsistence fisher.

(c) Tribal fishers who engage in subsistence fishing shall obtain a subsistence fishing license issued by their Tribe, and shall abide by all provisions of these Regulations and applicable Tribal regulations governing subsistence fishing. In addition, no Tribal member shall engage in subsistence fishing with gill nets or impoundment nets without a Tribal permit which shall be limited both in duration and in the area where the fishing may occur. The Tribal member shall abide by the limitations contained in the permit.

(d) Subsistence fishers shall be limited to one hundred (100) pounds round weight aggregate catch of all species in possession.

(e) Subsistence fishers shall not sell or otherwise exchange for value any of the catch.

(f) Subsistence gill netting is limited to one (1) net of three hundred (300) feet or less per vessel per day, except that in the St. Mary's River, as described in Section VIII(a), a single gill net shall not exceed one hundred (100) feet in length. The tying together of single gill nets to form a gang of nets is prohibited.

(g) Subsistence fishing is authorized in all 1836 Treaty waters, except:

(1) Subsistence fishing with gill nets is prohibited in all lake trout refuges, and retention of lake trout taken with any gear in lake trout refuges is prohibited.

(2) Subsistence fishing gear shall not be set in a manner which completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty waters.

(3) There shall be no subsistence fishing with nets:

(i) Within one hundred (100) yards of any break wall or pier; or

(ii) Within a three-tenths (0.3) mile radius of the mouth of the streams listed in Section VIII(h).

(iii) In any tribal zone where fishing with all types of nets has been closed.

(h) Subsistence fishing with large mesh gill nets and impoundment nets is prohibited during the period from 12:00 noon November 6 through 12:00 noon November 29.

(i) In Little Bay de Noc, Lake Michigan, subsistence fishers shall not use gill nets or possess walleye beginning 12:00 a.m. March 1 through 6:00 p.m. May 15 in the waters of grid 306 north of an east-west line drawn through Saunders Point.

(j) In Big Bay de Noc, Lake Michigan, subsistence fishers shall not use gill nets or possess walleye beginning 12:00 a.m. March 1 through 6:00 p.m. May 15 in the waters of grids 308 and 309 north of a line from St. Vitals Point to the northernmost tip of Garden Bluff.

(k) Lake sturgeon, muskellunge (in Lake Michigan), and any species of fish listed as threatened or endangered under the Federal Endangered Species Act shall not be targeted for harvest, and any catch of such fish shall be returned to the water alive or, if not alive, shall be turned into the BSD or Tribal biological staff and shall not be retained in possession.

(l) All subsistence fishers who engage in any fishing activity under this section shall file catch reports with their Tribe as provided in Section XXII(b).

(m) No subsistence fisher shall set a gill net within fifty (50) feet of another gill net.

(n) In the City of Sault Ste. Marie's Kids Fishing Pond at Rotary Park Island, all fishing activity shall be in accordance with those regulations imposed by the City of Sault Ste. Marie and the State of Michigan.

PART SIX: LICENSES AND INFORMATION

SECTION XX. LICENSE AND REGISTRATION DEFINITIONS AND RESTRICTIONS.

(a) A commercial fishing captain license entitles the holder to operate a fishing boat and to participate fully in all commercial fishing activities, including the capture and sale of all species pursuant to these Regulations. It further entitles the holder to employ helpers in such activities. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued.

(b) A commercial fishing helper license entitles the holder to assist the holder of a commercial fishing captain license in commercial fishing activities. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued.

(c) A subsistence fishing license entitles the holder to engage in fishing activities for subsistence purposes. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued.

(d) A commercial fishing vessel registration is necessary in order for any vessel to be utilized for commercial fishing. Anyone with a valid commercial fishing captain license may operate a properly registered commercial fishing vessel. Fees for such licenses may be set by individual

Tribes.

(e) A member of a Tribe who engages in recreational fishing shall not be required to have in his or her possession a fishing license but must have tribal identification in his or her possession at all times.

(f) No holder of a commercial fishing captain license, commercial fishing helper license, or commercial fishing vessel registration shall fish as an employee of or for shares with a person not licensed to exercise treaty fishing rights. This prohibition shall be liberally interpreted to prohibit a licensee from exercising treaty fishing rights for the benefit of non-Indians.

(g) Except as provided in Section VII(b)(2)(vi), no Tribe shall issue a commercial fishing captain license or a commercial fishing vessel registration to a person who also holds a license or permit of any kind issued by the State of Michigan for commercial fishing.

SECTION XXI. LICENSE REGULATIONS.

(a) No member of a Tribe sixteen (16) years of age or older may engage in fishing activity within 1836 Treaty waters without having in his or her possession at all times a commercial fishing captain license countersigned under 25 C.F.R. Part 249, a commercial fishing helper license countersigned under 25 C.F.R. Part 249, or a subsistence license issued in accordance with these regulations, or, if engaged in recreational fishing, a tribal identification.

(b) No member of a Tribe may allow a person who does not possess a valid fishing license as required by subsection (a) of this section to aid or assist him or her while engaged in any fishing activity authorized by this Code; provided, however, that a validly licensed member of a Tribe may employ the consulting technical expertise of a non-member by obtaining a permit therefore from GLRC, which permit may not extend for more than one calendar year and may not be renewed for more than one additional year. Such permit shall list the name and address of the consultant, the type of fishing operation to which consultation will be provided, and the name and size of the vessel on which consultation will be provided. No such permit may be issued under any of the following circumstances:

(1) The consultant has an ownership interest in the vessel which the member seeks to utilize; or

(2) The consultant has an ownership interest in the fishing gear which the member seeks to utilize; or

(3) The consultant's payment for services from the member is based on a percentage of the member's proceeds from fishing activity.

(c) The license, permit or identification required by subsections (a) and (b) of this section shall be shown to any Enforcement Officer who makes a request therefore.

(d) Each boat which is used by a member of the Tribes for fishing activity shall have affixed to it in a clearly visible manner the number of the commercial fishing vessel registration issued by a Tribe. Each snowmobile or off road vehicle which is used by a member of a Tribe for fishing activity shall have affixed to it in a clearly visible manner a valid Tribal or State of Michigan snowmobile or off road vehicle registration.

(e) Each boat which is used by a member of a Tribe for commercial fishing activity must have on board at all times at least one person with a valid commercial fishing captain license.

No member of a Tribe may allow any person who does not possess a valid fishing license as required by subsection (a) of this section, or who does not possess a permit as required by subsection (b) of this section, to be on board a commercial fishing vessel while it is operating on 1836 Treaty waters; provided, however, that such person's presence may be authorized by the member's Tribe through the issuance of a written permit. Issuance of such authorization shall not be considered a permit to engage or assist in fishing activity. Such permit shall identify by name and address the authorized individual, specify the commercial fishing vessel upon which the individual may be a passenger and the purpose for his presence, and identify the dates for which such authorization is valid.

SECTION XXII. HARVEST REPORTING AND SAMPLING.

(a) Each person to whom a commercial fishing captain license has been issued shall file with his or her Tribe an accurate report of his or her harvest for each calendar month not later than the

tenth (10th) day of the following month. The licensee who is in charge of the fishing vessel may file a single report listing the names and license numbers of all licensed fishers who worked on the vessel at any time during the previous month, as well as the information required in sub. (2), below.

(1) Harvest reports shall be filed with the designated office of the Tribe that has issued the license. A Tribe may designate the BSD as the recipient of its catch reports.

(2) The report shall be submitted on forms developed for that purpose by the BSD, and each report shall include, for each day of fishing activity:

(i) the kind of gear used, including mesh size and total length of net lifted or number of impoundment nets lifted;

(ii) the depth and location of fishing activity by grid number;
the total pounds of each species landed;

(iv) whether the fish were sold round or dressed;

(v) the fisher's license number;

(vi) the date of the activity; and

(vii) any other information required.

(3) The holder of a commercial fishing captain license who does not fish during a month shall file a report of "no fishing."

(4) Catch reports filed by individual Tribal fishers are confidential and protected from disclosure. CORA shall not divulge the name of any reporting fisher or release a catch report except as required by an order from the appropriate Tribal court.

(b) Each person to whom a subsistence fishing license has been issued shall file with his or her Tribe an accurate report of his or her harvest for each calendar month not later than the tenth

(10th) day of the following month.

(1) Subsistence harvest reports shall be filed with the designated office of the Tribe that has issued the license. A Tribe may designate the BSD as the recipient of its catch reports.

(2) The subsistence harvest report shall be submitted on forms developed for that purpose by the BSD, and each report shall include, for each day of fishing activity:

(i) the type and amount of gear used;

(ii) the location of fishing activity by grid number;

(iii) the total pounds round weight of each species landed;

(v) the fisher's license number and, if nets were used, the fisher's permit number;

(vi) the date of the activity; and

(vii) any other information required.

(3) The holder of a subsistence fishing license who does not fish during a month shall file a report of "no fishing."

(4) Catch reports filed by individual Tribal fishers are confidential and protected from disclosure. CORA shall not divulge the name of any reporting fisher or release a catch report except as required by an order from the appropriate Tribal court.

(c) Each tribally licensed commercial fisher shall issue a bill of sale to any retail outlet purchasing fish from such fisher. The bill of sale shall be on a form developed by the BSD for that purpose which shall contain the name of the Tribal fisher; the number and pounds, by species, of fish sold; the date of sale; and the signature of the fisher.

(d) Tribally licensed commercial fishers selling fish to any state- or Tribally-licensed fish wholesaler shall furnish the wholesaler with the name of the seller, the seller's address and license number, the date of the sale, and the signature of the fisher on the state or Tribal wholesale fish record of purchase.

(e) Any Tribally-licensed fish wholesaler shall furnish written reports of all purchases of fish on a form developed by the BSD for that purpose, indicating the name of the seller; the date; the seller's license number; the number and pounds of each species sold; and the price paid for each species. Tribally-licensed wholesale fish dealers shall require identification from each seller of fish. A Tribally-licensed wholesale fish dealer shall purchase fish only from a State or Tribally licensed commercial fisher, or other legal source of fish. A copy of the report shall be mailed by the Tribally-licensed fish wholesaler to CORA by the tenth (10th) day of the month following the month in which the transaction occurred.

(f) Any catch shall be subject to reasonable biological sampling by Tribal biologists or the BSD to obtain information required for conservation and management purposes. If such sampling impairs or destroys the market value of the sampled fish, a reasonable value for the loss shall be paid to the fisher.

SECTION XXIII. ASSESSMENT FISHING.

Notwithstanding the other provisions of these Regulations, assessment fishing may be conducted by Tribal commercial fishers under permit from CORA or the State of Michigan. Such assessment fishing by commercial fishers, except that conducted by the United States, shall be limited by the following, except as may be otherwise approved by the state, the federal government, and the Tribes:

(a) Tribal commercial fishers shall not be permitted to conduct assessment fisheries in areas otherwise closed to Tribal commercial fishing under Section VIII.

(b) If an assessment conducted by commercial fishers will harvest a species in an area where commercial fishing for that species is prohibited by these Regulations, or will use gill nets in an area where the commercial use of such gear is otherwise prohibited by these Regulations, the assessment shall be limited to a single operation using no more than 6,000 feet of large mesh gill

net, small mesh gill net, or graded mesh gill net, as appropriate.

PART SEVEN: REGULATION AND ENFORCEMENT

SECTION XXIV. TRIBAL REGULATIONS.

(a) Each of the Tribes may promulgate regulations necessary to implement those portions of the Management Plan or Consent Decree which apply to that particular Tribe only, or which affect it in ways that are not reflected in the Tribal Code.

(b) Each of the Tribes may promulgate additional and different regulations governing its members which are more restrictive than the provisions of the Tribal Code, provided that the regulations comply with the Management Plan and Consent Decree and do not involve matters that require uniformity among the Tribes.

(c) The violation of any Tribal regulation adopted as provided in this section is prohibited.

SECTION XXV. ORDERS OF THE DIRECTOR.

(a) The Director shall issue emergency orders closing, curtailing, or otherwise restricting fishing activity by Tribal fishers when substantial harm to the resource is imminent and the need for immediate action is evident. Such an emergency order, unless rescinded by the Director, shall remain in effect until forty-five (45) days from the date of issuance or until GLRC has acted upon the matter, whichever shall first occur.

(b) The Director shall have the authority to close fishing by members of any Tribe, or to implement other regulations authorized by or consistent with the Consent Decree, Management Plan, and these Regulations necessary to prevent that Tribe or its fishers from violating the provisions of the Consent Decree, Management Plan, these Regulations, or decisions of GLRC or the Director made in accordance with the Management Plan.

(c) The violation of any order of the Director issued in accordance with this section is prohibited.

SECTION XXVI. JURISDICTION AND ENFORCEMENT.

(a) Jurisdiction to enforce these Regulations upon members of each Tribe is vested exclusively in the tribal court of that Tribe.

(b) Except for the provisions of Section XXVII, these Regulations are civil in nature. Violations may be punished by suspension or revocation of the fishing license or permit of the violator, assessment of a monetary penalty, forfeitures as set forth in subs. (c), (d), and (e), below, without the necessity of a separate forfeiture action, and any other penalty provided for by the civil or criminal code of the Tribe for violations within its jurisdiction.

(c) Violations of the regulations listed below shall be major violations and shall be punished by license or permit suspension for not less than thirty (30) days, a fine of not less than $250.00, forfeiture of the catch, and such additional penalties as the tribal court may order:

(1) Commercial fishing for species listed in Section XVI;

(2) Commercial fishing for a fish species during the closed season for that species in the area of the fishing activity;

(3) Commercial fishing in an area closed to that activity as specified in Section VIII;

(4) Fishing with gear prohibited in lake trout refuges, or with gear prohibited during closed seasons, or with gear which is prohibited by subsequent amendment of these Regulations or by an emergency order of the Director; and

(5) Engaging in commercial fishing activity without first having obtained a valid commercial fishing captain license or commercial fishing helper license, as required by these Regulations.

(d) All fish, eggs, or parts of fish taken, possessed, sold, purchased, offered for sale or purchase, or transported, delivered, received, carried, shipped, exported, or imported contrary to

these Regulations shall be subject to seizure and shall be forfeited to the appropriate tribal court.

(e) All traps, nets and other equipment, vessels, snowmobiles, vehicles, and other means of transportation used to aid in the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivery, receiving, carrying, shipping, exporting, or importing any fish, eggs, or parts of fish in violation of these Regulations shall be subject to seizure and may be forfeited by the appropriate tribal court.

(f) The Tribes shall accept and prosecute all alleged violations of these Regulations referred to them by enforcement officers.

(g) Any enforcement officer may:

(1) Detain for inspection and inspect any package, crate, box, or other container, including its contents and all accompanying documents or tags, at reasonable times.

(2) Arrest without warrant any person committing in his or her presence or view a violation of Section XXVII.

(3) Execute any process for enforcement of the provisions of these Regulations.

(4) Search any place reasonably related to fishing activity, with or without a warrant, as authorized by state law.

(5) Seize, with or without warrant, any article which may be subject to forfeiture under subs. (c), (d), and (e), above, or which may be required as evidence of a violation of these Regulations, if the violation occurs in his or her presence; provided, however, that any such articles seized shall be delivered within forty-eight (48) hours of the time of seizure into the custody of the tribal court of the Tribe which has licensed or permitted the fisher who has violated these Regulations.

SECTION XXVII. CRIMINAL PROVISIONS.

(a) It shall be a criminal offense for any person to commit any of the following acts:

(1) Assault, resist, oppose, impede, intimidate, bribe, attempt to bribe, or interfere with an enforcement officer engaged in enforcing these Regulations.

(2) Violate any license or permit suspension or revocation ordered by a tribal court under Section XXVI.

(3) Commit any contempt in the presence of the tribal court.

(4) Violate any court order.

(5) Damage or steal nets or equipment belonging to another fisher, or steal from another fisher's nets.

(6) Possess a firearm while engaging in any fishing activity under these Regulations.

(b) Criminal offenses shall be punishable by a fine not to exceed $5,000.00 or imprisonment not to exceed one year, or both. In addition, the forfeiture provisions of Section XXVI(d) and Section XXVI(f) shall apply to those convicted of criminal offenses.

PART EIGHT: ACCESS

SECTION XXVIII. USE OF ACCESS SITES.

(a) Fishers issued licenses or permits under these Regulations, including subsistence fishers, are authorized to use access sites which are subject to permits issued by agencies of the State of Michigan and the United States to the Chippewa-Ottawa Treaty Fishery Management Authority (COTFMA), predecessor to CORA, and sites acquired by COTFMA from private parties, as well as such sites as CORA may receive permits for or acquire. Sites may be used for putting boats into and pulling boats out of the water, for docking facilities, and for parking of vehicles.

(b) The following regulations apply to the use of such access sites, in addition to any restrictions or requirements that may be set forth in the applicable permit:

(1) All vehicles shall be parked in the designated parking areas only.

(2) Equipment, with the exception of boat trailers, shall not be left on site overnight.

(3) Sites shall be maintained in a neat and orderly fashion with all garbage and refuse disposed of properly.

(4) Littering is prohibited.

(5) Cleaning of fish or fish disposal is prohibited.

(6) Maintenance of equipment on site is prohibited.

(7) Damage to trees, signs, and improvements is prohibited.

(8) Overnight camping and overnight housing are prohibited.

(c) Violations of this section are subject to the jurisdiction and enforcement provisions of Section XXVI and, in addition, may result in revocation or denial of permission to use access sites and an order of restitution for any damage caused.

Chapter 2. LTBB Off-Reservation (Ceded Territory Hunting, Fishing, and Gathering [*Repealed*]

The Off-Reservation Hunting, Fishing and Gathering Statute, being Waganakising Odawak Statute 2002-07, is repealed.

(Source, WOS 2005-01, February 20, 2005, Section III(A); Section II of WOS 2005-01, codified at WOTC 4.504, delegated the promulgation of regulations to the Natural Resources Commission. By Section IV of WOS 2005-01 this change took "effect upon the Natural Resources Commission's adoption of regulations that govern the use, management and protection of natural resources within the Ceded Territory and Reservation.")

Chapter 3. Natural Resources Regulations for the Little Traverse Bay Bands of Odawa Indians' Reservation [*Repealed*]

The Natural Resources Regulations for the Little Traverse Bay Bands of Odawa Indians' Reservation Statute, being Waganakising Odawak Statute 2001-05, is repealed.

(Source, WOS 2005-01, February 20, 2005, Section III(B); Section II of WOS 2005-01, codified at WOTC 4.504, delegated the promulgation of regulations to the Natural Resources Commission. By Section IV of WOS 2005-01 this change took "effect upon the Natural Resources Commission's adoption of regulations that govern the use, management and protection of natural resources within the Ceded Territory and Reservation.")

Chapter 4. Wetland Protection and Management

4.401 FINDINGS

A. Importance to Ecosystem. Wetlands Areas are an integral and essential part of the ecosystem. Their functions include:

1. Sediment control;

2. They provide a natural filtration system needed to maintain surface and ground water quality;

3. They store water after high rainfalls thereby preventing erosion and failure of storm and sewage runoff and discharge systems;

4. Groundwater recharge;

5. They provide a habitat for many plants and animals, including aquatic life and endangered or threatened species;

6. Wetland habitats are needed for outdoor recreation, as well as fishing and hunting.

B. **Cultural Values**. The critical environmental functions of Wetland Areas make them very important to Little Traverse Bay Bands of Odawa Indians (LTBB) culture in that they provide medicinal, food and utilitarian plants, and a forum for outdoor education and ceremony.

(Source: WOS 2006-016, September 18, 2006, Section I)

4.402 PURPOSE

By protecting wetlands we protect our heritage for the next seven generations. The purposes of this Statute are:

A. Protection, preservation, proper maintenance, and use in accordance with the character, adaptability, and stability of the reservations' Wetlands in order to prevent pollution, or contamination; outlaw their disturbance and disturbance to the natural habitat therein; and prevent damage from erosion, siltation, and flooding.

B. Encourage education and proper cultural uses of our Wetlands, and reduce their over harvesting.

C. The coordination with, and support for the enforcement of any applicable federal statutes, ordinances and regulations involving wetlands protection and enhancement.

D. The establishment of standards and procedures for review of the regulation and uses of wetlands.

E. The establishment of enforcement procedures and penalties for the violation of the Statute.

F. To prevent the loss of Native Wetlands and any other Wetlands within the jurisdiction of LTBB.

(Source: WOS 2006-016, September 18, 2006, Section II)

4.403 DEFINITIONS

A. "**Applicant**". Any person or entity applying to conduct activity on or in any way alter wetlands, including but not limited to individuals, sole proprietorships, partnerships, corporations, associations, governments, and governmental agencies.

B. "**Coastal Wetland**". Wetlands that are within one mile or less of the Lake Michigan shoreline.

C. "**Conservation Enforcement Officer**". Any Tribal Conservation or Law Enforcement officer authorized by Tribal law to enforce Tribal conservation regulations, or federal enforcement agents, including Special Agents of the U.S. Fish and Wildlife Service.

D. "**Contiguous Wetland**". Wetland bordering a lake or stream or that is directly connected to, or within 500 feet of, the surface waters of the Great Lakes.

E. "**High Quality Wetlands**". Those wetlands determined to be of high quality by the LTBB Wetland Protection Officer using the rapid assessment for functional values analysis.

F. "**Hydric Soils**". A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop an anaerobic condition in the upper part or as recognized in the United States Department of Agriculture Soil Surveys for the reservation land as a Hydric Soil.

G. "**Inland Wetland**". Any wetland over one mile from the Lake Michigan shoreline.

H. "**Non-contiguous Wetland**". A wetland over 500 feet from the surface waters of the Reservation land and not directly connected to waters therein.

I. "**Native Wetlands**". Wetlands that are within or connected to the 1855 LTBB Treaty Delineated Reservation that include marshes, bogs, fens, sedge meadows, seeps, or wet prairies.

J. "**Sediment Control**". When wetland vegetation greatly reduces the velocity of water flow, allowing suspended material to settle.

K. "**Wetland**". Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, not contiguous to the Great Lakes, an inland lake or pond, or a river or stream. Wetlands must have hydric soils, wetland vegetation and presence of wetland hydrology.

L. "**Wetland Delineation**". Determining the boundaries of a wetland utilizing aerial photography, satellite telemetry data, digital imagery, other graphic representation of the area, and/or field reconnaissance.

M. "**Wetland Vegetation**". Plants that exhibit adaptations to allow, under normal conditions, germination and propagation, and to allow growth with at least their root systems in the water or saturated soils.

(Source: WOS 2006-016, September 18, 2006, Section III)

4.404 WETLAND PROTECTION OFFICER

The duties of the Wetland Protection Officer will be performed by the Wetland Technician or other qualified staff within the Environmental Services Department as determined by the Environmental Services Director.

A. Wetland Protection Officer Duties and Responsibilities:

1. Enforce regulations promulgated pursuant to this Statute;

2. Wetlands permitting and activities review;

3. Wetlands Delineation;

4. Conduct an annual review of this Statute and Regulations to recommend changes, identify conflicts between this Statute and Regulations and other governments' local ordinances and zoning laws/ordinances, and address accordingly;

5. Assist in development and review of LTBB's operating procedures for implementation of this Statute and Regulations;

6. Serve as a liaison between Tribal, Federal, County, State and local units of government on Wetland protection issues;

7. Apply for U.S. Army Corps of Engineers permits; Standard or Regional, if needed under Section 404 of the Clean Water Act, 33 U.S.C. § 1344.

(Source: WOS 2006-016, September 18, 2006, Section IV)

4.405 NATURAL RESOURCE COMMISSION

Pursuant to Const. art. VII, § D (16) a Wetland Review Board ("WRB") is hereby created.

A. Composition: The Natural Resource Commission shall serve as the WRB.

B. Wetland Review Board Mandates:

1. Hear permit application appeals under § -- of this Statute.

2. Develop procedures for permit application appeal hearings.

3. Provide recommendations to the Environmental Services Department.

(Source: WOS 2006-016, September 18, 2006, Section V)

4.406 LANDS TO WHICH THIS STATUTE APPLIES

This Statute shall apply to:

A. Non-contiguous and contiguous wetlands at least 1/3 acre in size;

B. All high quality wetlands, regardless of size, located on lands held in fee by, or trust for, LTBB, or otherwise under the jurisdiction of LTBB.

(Source: WOS 2006-016, September 18, 2006, Section VI)

4.407 WETLAND VERIFICATION AND DELINEATION

A. The Environmental Services Department and GIS Department, along with any other departments or staff assigned by the Tribal Administrator, shall prepare and keep current an inventory of all wetlands to which this Statute applies, including the preparation of composite Wetlands maps, using available resources including but not limited to United States Department of Agricultural Soil surveys, Wetland Criteria as established by the Army Corps of Engineers, field inspection, topographical maps, and aerial photography. The inventory and maps shall note areas of particular cultural significance. This inventory shall be in compliance with the proposed LTBB Cultural Areas Policy and Procedures.

(Source: WOS 2006-016, September 18, 2006, Section VII)

4.408 REGULATIONS; ADMINISTRATIVE PROCEDURES; DEPARTMENTAL PROCEDURES

A. Regulations

1. Uses Allowed Without a Permit. The Environmental Services Department shall develop regulations for uses allowed in a wetland without a permit.

2. Uses Allowed With a Permit. The Environmental Services Department shall develop regulations for activities allowed in a wetland with a permit.

3. Prohibited Uses. The Environmental Services Department shall develop regulations for uses that are prohibited in a wetland. They will include but are not limited to the following:

a. Deposit or permit the placing of fill material in a Wetland;

b. Dredge, remove, or permit the removal of soil or minerals from a wetland;

c. Construct, operate, or maintain any use or development in a wetland;

d. Drain surface water from a wetland;

e. Engage in wanton destruction or waste of fish, game, reptiles, amphibians or plants.

B. Administrative Procedures

1. Permit Applications. The Environmental Services Department shall develop administrative procedures for permit applications for permits required by regulations promulgated pursuant to this Statute.

2. Appeals. The Environmental Services Department shall develop administrative procedures for appeals from the grant or denial of permit applications for permits required by regulations promulgated pursuant to this Statute.

(Source: WOS 2006-016, September 18, 2006, Section VIII)

4.409 ENFORCEMENT AND PENALTIES

A. Enforcement.

1. The Tribal Court shall have jurisdiction to hear and adjudicate alleged violations of this Statute.

2. LTBB Conservation Enforcement Officers shall have the authority to issue civil citations for violations of any of the provisions of this Statute, or for any regulations promulgated pursuant to this Statute.

B. Penalties. If the Court finds that any person or entity destroyed or harmed wetlands in

violation of this Statute, or any regulations promulgated pursuant to this Statute, it shall enter such orders as it deems necessary to restore such wetlands; including the issuance of injunctions requiring the restoration of such wetlands, or the assessment of monetary fees in amounts adequate to cover restoration costs, or any other appropriate civil penalty.

(Source: WOS 2006-016, September 18, 2006, Section IX)

4.410 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.

(Source: WOS 2006-016, September 18, 2006, Section X)

4.411 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-016, September 18, 2006, Section XI)

Chapter 5. Natural Resources Commission

4.501 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 the resources on, above, below and within the land and waters.

B. This statute 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. This Statute repeals and replaces the Natural Resources Commission Statute enacted on March 26, 1995, being Waganakising Odawak Statute1995005. It is intended that this statute 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 the new constitution.

(Source: WOS 2001-04, March 18, 2001, Section I)

4.502 DEFINITIONS

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

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

B. "**Commissioner**" shall mean the individual designated to chair the Commission who shall have powers and authority vested in that office pursuant to this statute.

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

D. "**Tribal Council**" shall mean the elected governing body of the Little Traverse Bay Bands of Odawa Indians.

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

(Source: WOS 2001-04, March 18, 2001, Section I)

4.503 PURPOSE OF WOS 2005-01 CREATING NEW SECTION [WOTC 4.506]

The purpose of this Statute is to clarify the duties and authority of the Natural Resources Commission including its promulgation of regulations to ensure the wise use and management of inland natural resources.

(Source: WOS 2001-04, March 18, 2001, Section I)

4.504 NATURAL RESOURCES COMMISSION

A. There is hereby created the Natural Resources Commission, which shall consist of five (5) persons appointed according to Section B of this Article, which Commission is created for purposes described in Article I of this statute. The Commission is charged with the oversight and regulation of utilization of natural resources within LTBB's jurisdiction and shall exercise the powers and authorities described in Article IV [WOTC 4.504] hereof and such other powers and authorities described as may be delegated by the Tribal Council by resolution, amendment of this statute or by a separate statute.

B. The Natural Resources Commission shall consist of the following persons to be appointed 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 statute. 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 appointment 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 statute. 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 appointment to his or her first term of office.

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

1. Initial appointments. The Tribal Council shall appoint a Commissioner and two

Associate Commissioners who shall serve for two (2) years, and two (2) Associate Commissioners who shall serve for four (4) year terms.

2. Future appointments. At the expiration of the terms of any Commissioners, the Tribal Council shall fill such vacancies by appointment.

3. At least forty-five (45) days prior to the expiration of the term of any Commissioner, the Commission's Administrative Assistant shall notify the Tribal Council to publicize the vacancy 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) terms in such capacity, whether or not consecutive. There shall be no limit on the terms that Associate Commissioners may serve and a past Commissioner may serve as an Associate Commissioner. The Commissioner and Associate Commissioners will continue to serve until their successors are appointed and sworn in.

E. As soon as practicable after appointment, the Tribal Court shall administer the oath of office to the Commissioner and to Associate Commissioners. The 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 statute, the mandates of the CORA Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron and Michigan, the Natural Resources Regulations for the Little Traverse Bay Bands of Odawa Indians' Reservation and the Uniform Conservation Code of the Odawa/Ottawa and Chippewa of Northern Michigan and future statutes adopted by the Tribal Council.

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

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

a. Conviction of 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 statute.

c. Failure to attend three (3) consecutive meetings of the Commission without valid excuse.

2. Procedure for removal of an individual from the office of Commissioner or Associate Commissioner shall be in accordance with the Removal of Commissioners and Nepotism Statute (Waganakising Odawak Statute 1997005), or such successor statute as the Tribal Council may enact.

3. In the event a vacancy occurs in the office of Commissioner or Associate Commissioner, by virtue of death, resignation or removal, the Tribal Council shall appoint a member meeting the eligibility requirements of this Statute to fill the remaining term.

(Source: WOS 2001-04, March 18, 2001, Section II)

4.505 MEETINGS OF THE NATURAL RESOURCES COMMISSION

A. Regular Meetings. Regular meetings of the Natural Resources Commission shall be held at least once a month for the purpose of conducting the business of the Natural Resources 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 Natural Resources Commission at least ten days prior to the date of the meeting.

2. Commissioner and each Associate Commissioner shall have a vote on all issues except when they have a conflict of interest.

3. 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 official

records of the Natural Resources Commission.

4. Notice of upcoming meeting dates shall be posted in all Tribal Buildings and announced in the Odawa Trails Newsletter.

B. Public Informational Meetings. One time per year, the Commission shall hold its regular monthly meeting at a location suitable for any interested Tribal members to attend and receive information on the work and activities of the Commission. The following requirements apply to this annual meeting.

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

2. Substantial time shall be set aside at 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 Natural Resources Commission.

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

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

C. Special meetings. Special meetings of the Natural Resources Commission shall be held as needed upon the directive of the Natural Resources Commissioner or any two (2) Associate Commissioners upon receipt of five (5) days notice in writing. Special meetings shall be held in accordance with the requirements of the Stipend policy or such other statute or policy of the Tribal Council governing special meetings of commissions.

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

1. It shall be the standard that all meetings of the Natural Resources 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 conducted in closed session when necessary to deal with personnel issues or to discuss any legal matters.

2. Minutes of all regular and special meetings of the Natural Resources Commission shall be transcribed, shall be kept on permanent file in the offices of the Natural Resources Commission, and shall be available for inspection by any member of the Little Traverse Bay Bands of Odawa Indians in accordance with the procedures developed by the Tribal Council.

3. The Commissioner and Associate Commissioners shall not participate in making any decision that involves a personal or financial interest of the member of his or her immediate family unless such interest is held in common with the Tribe and its members.

4. Quorum. A quorum shall consist of three members of the Commission. The Commissioner counts toward a quorum.

(Source: WOS 2001-04, March 18, 2001, Section III)

4.506 POWERS AND AUTHORITIES OF THE LTBB NATURAL RESOURCES COMMISSION

A. The primary purpose of the Natural Resources Commission is to protect treaty hunting and fishing rights through monitoring resources and promulgating regulations that are consistent with the treaty rights and wise use of the resources. The Commission shall promulgate rules and regulations for all hunting, fishing, trapping and gathering, including subsistence and commercial, for the area within the boundary established by the Treaty of 1855, the 1836 Treaty Ceded Territory, and 1836 Treaty Ceded Waters. The Natural Resources Commission also has the responsibility of promulgating rules and regulations necessitated by future statutes adopted by the Tribal Council pertaining to Natural Resources. All rules and regulations promulgated and adopted in accordance with this statute shall have the effect of law.

B. The Natural Resources Commission shall have the following additional powers:

1. To issue orders and directives not inconsistent with either statute; to take any and all steps necessary, not inconsistent with other statutes, to carry out the purposes set forth in subsection (A) of this Section.

2. When expressly authorized by Tribal Council action, 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.

3. To issue, suspend or revoke licenses contemplated by this statute and the aforementioned mandates in subsection (A) of this Section addressing the commercial fishery and the harvest of the inland natural resources.

4. To issue, suspend or revoke special permits contemplated by this Statute and the aforementioned mandates in subsection (A) of this Section addressing the commercial and subsistence fishery and the harvest of inland natural resources.

5. Take or enact emergency measures in order to preserve the rights or resources of the Tribe or its members. This may include but not be limited to shortening or closing seasons, reducing bag limits and/or other similar methods. The NRC may take this action at any regularly scheduled meeting or by a phone poll called for that purpose. However, such emergency enactment shall require a unanimous vote of all sitting Natural Resource Commissioners and shall not conflict with any governing court order.

(Source: WOS 2005-01, February 20, 2005, Section II which by Section IV of WOS 2005-01 took effect immediately upon enactment)

4.507 POWERS OF THE COMMISSIONER

The Natural Resources Commissioner shall have the following powers and authority:

A. To chair meetings of the Natural Resources Commission.

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

C. To represent the Natural Resources Commission, whenever it is appropriate for the Natural Resources Commission to be represented.

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

E. To delegate to any Associate Commissioner any of the duties and responsibilities of the Commissioner.

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

(Source: WOS 2001-04, March 18, 2001, Section V)

4.508 SAVINGS CLAUSE

In 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, laws or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2001-04, March 18, 2001, Section VI)

4.509 EFFECTIVE DATE

This Statute takes effect immediately upon enactment [March 18, 2001]. Provided, the Commissioner and Associate Commissioners serving under the previous statute shall remain in place for the remainder of the terms to which they were appointed.

(Source: WOS 2001-04, March 18, 2001, Section VII)

Chapter 6. Protection of Great Lakes

4.601 TITLE AND PURPOSE

A. Title. This Statute may be cited as the Little Traverse Bay Bands of Odawa Indians Great Lakes Protection Statute.

B. Purpose. The Bands that make up the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) historically resided in the Great Lakes Region in harmony with the natural environment since well before the arrival of Europeans. The Great Lakes, especially Lakes Michigan, Huron and Superior, have provided the Tribe with food, water, and transportation for hundreds of years. The central mission of the Tribal government stated in the Tribe's Constitution is "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, and to protect our property and resources." Preserving the environmental quality of the Great Lakes and their resources for the present and future generations is absolutely essential to the Tribe. This Statute is enacted to help protect and preserve the Great Lakes ecosystem.

(Source: WOS 1999010, June 27, 1999, Section I)

4.602 DEFINITIONS

The following definitions apply to this Statute:

A. "**Great Lakes**". Great Lakes means any of the following bodies of water: Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Superior, and all connecting waters.

B. "**Sale**". Sale means any selling or attempted selling of water from any of the Great Lakes.

C. "**Divert/Diversion**". Divert or Diversion means any increased activity removing water

from any of the Great Lakes to a point outside of the Great Lakes Basin. The term does not include movement of waters through locks designed to protect the Great Lakes from pollution that are already in use as of the date of enactment of this Statute.

(Source: WOS 1999010, June 27, 1999, Section II)

4.603 DRILLING, SALE, AND DIVERSION PROHIBITION

A. No person under the jurisdiction of LTBB may commence or carry out any drilling activity (including any slant or directional drilling) to extract oil, gas or other petroleum products from lands beneath waters under any of the Great Lakes.

B. No person under the jurisdiction of LTBB may commence or carry out any activities to sell or divert any waters from the Great Lakes.

C. The Tribal Prosecutor, as directed by the Tribal Council, shall bring any action necessary to enforce the prohibition contained in this section.

(Source: WOS 1999010, June 27, 1999, Section III)

4.604 VIOLATIONS OF FEDERAL LAW BASED ON TREATIES

A. Under Article VI of the United States Constitution, "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." LTBB was a party to numerous treaties with the United States including the 1836 Treaty of Washington, 7 Stat. 491, in which the Tribe reserved the right to utilize Great Lakes resources for subsistence and commercial purposes. Federal Courts have upheld the continued vitality of this Treaty right. Degradation and destruction of the Great Lakes ecosystem constitutes an unauthorized limitation or negation of this Treaty right. Any such degradation or destruction therefore violates the "supreme law of the land."

B. Any drilling, sale or diversion which has the potential for impacting the waters of Lakes Michigan, Superior or Huron ceded by the 1836 Treaty of Washington would violate Federal law

and Tribal law, and LTBB will take any appropriate and necessary action to prevent such activity including seeking Federal prosecution therefore.

(Source: WOS 1999010, June 27, 1999, Section IV)

4.605 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.

(Source: WOS 1999010, June 27, 1999, Section V)

4.606 EFFECTIVE DATE

This Statute shall take effect immediately upon enactment [June 27, 1999].

(Source: WOS 1999010, June 27, 1999, Section VI)

Chapter 7. Solid Waste Disposal

4.701 INTRODUCTION / PURPOSE

The Little Traverse Bay Bands of Odawa Indians recognizes that unsanitary, inefficient, and inappropriate methods of disposal of solid waste have an adverse impact upon the environment and the natural resources of the Little Traverse Bay Bands of Odawa Indians and its citizens, and the promulgation of standards of solid waste disposal and recycling are in the best interests of the Little Traverse Bay Bands of Odawa Indians people. Accordingly, the purposes of this Statute are to promote the health, safety and welfare of the Little Traverse Bay Bands of Odawa Indians' members and all others within LTBB's jurisdiction through the establishment of standards necessary to the sanitary and environmentally sound disposal of solid waste.

4.702 DEFINITIONS

A. "**Brush**" means cut or broken branches.

B. "**Campfire**" means small fire of not more than 3.5 ft. in diameter which has been contained in a pit, or metal or masonry burner. Used for cooking, warmth, or recreation.

C. "**Collection Site**" means any place designated by the Tribal Council or Natural Resource Department as the site where solid waste may be presented for disposal including transfer stations.

D. "**Collector**" means any natural or legal person, that person's employees and agents, who gather solid waste from another person.

E. "**Commercial Grade Waste Wood**" means any wood of commercial nature that has been treated, stained, painted, tarred, shingled, or glued.

F. "**Garbage**" means all putrescible (decayable) wastes, including animal and vegetable matter, animal offal and carcasses and recognizable industrial by-products, but excluding sewage and animal wastes.

G. "**Garbage Pits**" means holes, pits and or depressions in the normal topography created for the sole purpose of depositing and/or placing garbage and refuse as a means of disposal.

H. "**Hazardous Solid Waste**" means any solid waste defined as hazardous by the Environmental Protection Agency under the provisions of the Resource and Conservation Act of 1976, as amended, and includes but is not limited to, explosives, pathological wastes, pesticides, chemicals, and other toxic materials, which are harmful to public health.

I. "**Non-recyclable Waste**" means all solid waste not listed in Subsection (O) of this section, excluding hazardous waste.

J. "**Open Burning**" means any fire wherein the products of combustion are emitted directly into the atmosphere and are not directed thereto through a stack or chimney, incinerator, or other

devices.

K. "**Open Dump**" means the consolidation of solid waste from one or more sources at a disposal site with unsanitary conditions, little or no cover, usually burning, and little or no management.

L. "**Person**" means any individual, firm, governmental unit, organization, partnership, corporation, or company.

M. "**Putrescible**" means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gasses, such as kitchen wastes, food scraps, offals and carcasses.

N. "**Radioactive Solid Waste**" means any radioactive material.

O. "**Recyclable Waste**" means glass containers, metal cans, jar lids, newspaper, magazines, phone books, hard-cover books, cardboard, brown paper bags, office/writing paper, envelops, file folders, plastics (HDPE and PET), aluminum cans, foil, batteries and motor oil.

P. "**Refuse**" means all non-putrescible wastes.

Q. "**Solid Waste**" means all garbage, refuse, rubbish, trash, and other discarded, solid materials, including solid wastes materials resulting from industrial, commercial, and agricultural operations, from community activities and individual people, but doses not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return or other common pollutants.

R. "**Solid Waste Collector**" means LTBB approved tribal or non-tribal entity responsible for collecting, transporting, and properly disposing of solid waste.

S. "**Solid Waste Disposal**" means the collection, storage, treatment, utilization, processing or final disposal of solid waste.

T. "**Solid Waste Disposal Facility**" means any land, personnel equipment, or resource approved for and used in the disposal of solid waste.

U. "**Solid Waste Reduction**" means reduction of waste at the source of generation, prior to recycling.

V. "**Spoiled Food**" means any food which has been removed from sale by the United States Department of Agriculture.

W. "**Transfer Station**" means any facility approved by the LTBB Tribal Council for the purpose of collecting, transporting and disposing of solid wastes.

X. "**Tribal Health**" means the Health Director and/or his authorized representative or Department representatives.

Y. "**Tribe or LTBB**" means the Little Traverse Bay Bands of Odawa Indians.

Z. "**Vector**" means an insect or other animal, which transmits infectious diseases from one person or animal to another.

AA. "**Waste Wood**" means any wood of commercial nature that has not been treated, stained, painted, tarred, shingled, or glued.

BB. "**Yard Waste**" means any waste associated with common yard maintenance, such as grass clippings, pulled weeds, leaves, twigs and branches.

(Source: WOS 2003-001, January 5, 2003, Section II)

4.703 APPLICABILITY

This Statute applies to all real property and persons under the jurisdiction of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2003-001, January 5, 2003, Section III)

4.704 SOLID WASTE DISPOSAL

The following provisions shall apply to all solid waste disposal within LTBB Tribal jurisdiction.

A. No person shall leave, deposit, and/or dump solid waste anywhere within LTBB's jurisdiction except at a collection site or tribally approved transfer station.

B. No person shall store any solid waste on any properties or land within LTBB Tribal jurisdiction except for in containers, which have been approved and accepted by the solid waste collector.

C. No person shall burn and/or incinerate any solid waste on any properties within LTBB jurisdiction with the exception of those waste allowed for by permit (brush, yard waste and/or waste wood). This shall include but not be limited to burn barrels, burn baskets, in ground pits, garbage piles and the like.

D. No person shall deposit solid waste from any stopped or moving vehicle on to state, county, or tribal highways, roads, or right-of-ways, within LTBB Tribal jurisdiction.

E. No person shall dispose of any commercial hazardous and/or nuclear waste within LTBB jurisdiction.

F. No person shall deposit solid waste at a collection site or transfer station except in a manner approved by the solid waste collector.

G. The owner and/or occupant of any premise, business establishment, or industry within LTBB jurisdiction shall be responsible for the proper disposal of any solid waste produced by or accumulated at said premise, business establishment, or industry.

(Source: WOS 2003-001, January 5, 2003, Section IV)

4.705 SOLID WASTE REDUCTION, REUSE AND RECYCLING

Solid waste reduction, reuse and recycling are the preferred methods of handling solid waste. LTBB is and will continue to be committed to solid waste reduction, reuse and recycling.

A. All Tribally owned or funded facilities and/or enterprises shall implement a solid waste recycling and reduction policy developed by the Tribal Council or its designee.

B. The Tribe will make available at all Tribal housing sites and/or developments recycling collection bins.

C. All Tribally owned and/or funded facilities and/or enterprises and the collector contracted to empty the recycling collection bins shall not dispose of the said collected recyclables in any fashion other than which would allow the said recyclables to be recycled.

(Source: WOS 2003-001, January 5, 2003, Section V)

4.706 OPEN BURNING

Burning is not a recommended method of waste disposal. However, open-air burn permits may be issued for the burning of brush, other yard wastes and waste wood if conditions are conducive to safety and environmental protection.

A. The applicant must request a permit and receive approval in writing from the LTBB Natural Resources Department prior to any burning.

B. The Permittee will be required to inform the nearest local fire authority as to the time and location of the intended burn.

C. The permittee will be held responsible for any damages that may result from the fire itself or any other fires caused by the initial fire.

D. All permitted fires shall be attended at all times.

E. The permit will be valid for thirty (30) days after the date issued. The permittee must request in writing another permit after the expiration date.

F. All burning must cease and the permit becomes void if a burn ban is issued (contact local fire authority). The permittee shall be required to obtain a new permit in writing to continue burning once the restriction or ban has been lifted.

G. The permittee will be required to comply with any burning restrictions and/or bans that may be currently in place or enacted.

H. Burn permits are not required for campfires.

I. No permit shall be required when an inch or more of snow is present provided that no other restrictions apply.

(Source: WOS 2003-001, January 5, 2003, Section VI)

4.707 SOLID WASTE COLLECTION AND TRANSPORT

A. Any solid waste transported within LTBB jurisdiction shall be collected and transported in a manner that prevents the waste from leaking, blowing off, or falling from the transport vehicle. If there is any solid waste lost from or if there is any spillage from the collection container or transportation vehicle, the material shall be immediately picked up by the solid waste collector and returned to the vehicle or container and the area properly cleaned.

B. Commercial vehicles or containers used for collection and transportation of garbage and other putrescible wastes, or solid waste containing such materials, shall be covered, leak proof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(Source: WOS 2003-001, January 5, 2003, Section VII)

4.708 ENFORCEMENT

A. LTBB's Law and Conservation Enforcement officers shall be empowered to enforce all provisions of this Solid Waste Statute. When necessary to enforce this Statute, Tribal law

enforcement or natural resources conservation officers may file reports with the Tribal Prosecutor.

B. Any duly authorized agent, in the performance of his or her duty, may enter into any premises on or in which he or she has reasonable cause to believe a violation of this Statute is occurring after obtaining a valid search warrant from the Tribal Court, subject to the common law exceptions for exigent circumstances.

C. Violation of any provision of this Statute is a civil penalty which may not exceed $500. Each day of any continuing violation may be charged as a separate violation, and a separate penalty may be imposed.

D. In addition to a civil penalty, any personal property which has been used in connection with a violation of this Statute, including vehicles and other equipment may be seized and forfeited in satisfaction of any judgment rendered pursuant to this Statute.

E. Any person found in violation this Statute shall be responsible for any damage, clean up and/or remediation that may be necessary as a result of the said violation.

F. Repeated violations by occupants or Tribal Members that are renting or leasing from the Tribe may be punished by the termination of the rental agreement and/or lease.

G. Nothing herein shall prevent the Little Traverse Bay Bands of Odawa Indians from bringing suit against any violator of this Statute for monetary damages, for harm to any LTBB resources, or for injunctive relief.

(Source: WOS 2003-001, January 5, 2003, Section VIII)

4.709 PERMITS

The Little Traverse Bay Bands of Odawa Indians Natural Resource Department shall be responsible for the issuance of permits under this Statute.

(Source: WOS 2003-001, January 5, 2003, Section IX)

4.710 LIMITATIONS

Nothing within this Statute shall be constructed to limit the authority of the Tribal Council from adopting more stringent solid waste disposal requirements than those set forth in this Statute.

(Source: WOS 2003-001, January 5, 2003, Section X)

4.711 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this Statute found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such phrase, part, 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.

(Source: WOS 2003-001, January 5, 2003, Section XI)

4.712 EFFECTIVE DATE

This Statute shall take effect upon enactment by Tribal Council [January 5, 2003].

Chapter 8. Conservation and Cultural Preservation Easement Act

4.801 PURPOSE

The way of life of the Little Traverse Bay Bands of Odawa Indians (LTBB) relies upon environmental protection for cultural perpetuation. This is rooted in the traditional reliance on Great Lakes and inland fishing and hunting, and the many plant species that have cultural, medicinal, and spiritual values for the Tribe. For centuries, LTBB Tribal members have subsisted by making good use of the natural resources available to them, including the flora and fauna in their environment, for food, medicines, clothing, shelter, and heat. This way of life continues to be threatened by the increasing popularity of LTBB's 1836 and 1855 Treaty Reservation and

surrounding area both as a resort locale and as a permanent home. Development is still on the rise to accommodate the large numbers of people visiting and relocating in the area. The escalating development and rise in population density will continue to have a negative impact on the area's natural resources that hold such central importance to the Tribe.

The Little Traverse Bay Bands of Odawa Indians strives to protect vital areas such as sites of cultural significance, scenic view-sheds, open space, wetland areas, waterfront property, plant and animal habitat, and endangered/threatened species, etc. By protecting these vital areas in perpetuity, LTBB ensures that these areas and thus the LTBB way of life will be protected for the next seven generations.

(Source: WOS 2004-01, July 25, 2004, Section I)

4.802 DEFINITIONS

As used in this Statute:

A. "**Conservation Easement**" means an interest in land which provides limitation on the use of land or a body of water, or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming ,open space, or forest use, or similar use or condition.

B. "**Cultural/Historic preservation easement**" means an interest in land which provides a limitation on the use of a structure or site that is listed as a national historic landmark pursuant to the historic sites act of 1935, Public Law 74-292; is listed on the national register of historic places pursuant to the national historic preservation act of 1966, Public Law 89-665; is recognized as a site of cultural and/or historical significance according to the Little Traverse Bay Bands of Odawa Indians Archives and Records Department, or prohibits certain acts on or with respect to the structure or site, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will or other instrument executed by or on behalf of

the owner of the structure or site or in an order of taking, which interest is appropriate to the preservation or restoration of the structure or site.

C. "**Traditional Use Easement**" means a provision in a restriction, easement, covenant, deed, will or other instrument executed by or on behalf of the owner of the land that allows LTBB members to hunt, fish, gather plants, hold ceremonies and/or erect temporary or permanent structures as specified in such provision. A conservation easement as defined in Section II(A) and a cultural/historic preservation easement as defined in Section II(B) may also contain traditional use easements.

(Source: WOS 2004-01, July 25, 2004, Section II)

4.803 ENFORCEABILITY AND CONSERVATION EASEMENT: RECORDATION

A conservation easement granted to a governmental entity, including but not limited to the LTBB Tribal Government, or to a charitable or educational association, corporation, trust, or other legal entity, including but not limited to those formed under the laws of LTBB, before or after the effective date of this Statute, shall be enforceable against the owner of the land or body or water subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to particular land or a body of water, or the fact that the benefit may be assigned to another governmental entity or legal entity. Any such easement created after the effective date of this Statute that is for lands within the exclusive jurisdiction of LTBB or granted to LTBB or an entity formed under the laws of LTBB shall be filed with the LTBB Archives and Records Department as well as the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value or other grantee without actual notice.

(Source: WOS 2004-01, July 25, 2004, Section III)

4.804 ENFORCEABILITY OF CULTURAL / HISTORIC PRESERVATION EASEMENT: RECORDATION

A cultural/historic preservation easement granted to a governmental entity including but not limited to the LTBB Tribal Government, or to a charitable or educational association, corporation, trust, or other legal entity, including but not limited to those formed under the laws

of LTBB, before or after the effective date of this Statute, whose purposes include the preservation or restoration of structures or sites described in section II(B) shall be enforceable against the owner of the structure or site subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to the particular structure or site, or the fact that the benefit may be assigned to another governmental entity or legal entity whose purposes include the preservation or restoration of structures or sites described in section II(B). Any such easement created after the effective date of this Statute that is for lands within the exclusive jurisdiction of LTBB or granted to LTBB or an entity formed under the laws of LTBB shall be filed with the LTBB Archives and Records Department as well as the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value or other grantee without actual notice.

(Source: WOS 2004-01, July 25, 2004, Section IV)

4.805 ENFORCEABILITY OF TRADITIONAL USE EASEMENT

A traditional use easement granted to a governmental entity, including but not limited to the LTBB Tribal Government, or to a charitable or educational association, corporation, trust, or other legal entity, including but not limited to those formed under the laws of LTBB, before or after the effective date of this Statute, shall be enforceable against the owner of the land or body or water subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to particular land or a body of water, or the fact that the benefit may be assigned to another governmental entity or legal entity. Any such easement created after the effective date of this Statute that is for lands within the exclusive jurisdiction of LTBB or granted to LTBB or an entity formed under the laws of LTBB shall be filed with the LTBB Archives and Records Department as well as the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value or other grantee without actual notice.

(Source: WOS 2004-01, July 25, 2004, Section V)

4.806 ENFORCEABILITY OF OTHER RESTRICTIONS, EASEMENTS, COVENANTS OR CONDITIONS

This Statute does not render a restriction, easement, covenant, or condition which does not have

the benefit of this Statute unenforceable.

(Source: WOS 2004-01, July 25, 2004, Section VI)

4.807 RECORDATION OF EASEMENTS; ENFORCEMENT; ASSIGNMENT AND ACQUISITION

A. A conservation easement, historic preservation easement or traditional use easement is an interest in real estate, and a document creating one or more of those easements shall be considered a conveyance of real estate and shall be enforced either by an action at law or by an injunction or other equitable proceedings.

B. A conservation easement described in section II(A) and a traditional use easement described in section II(C) may be assigned to a governmental or other legal entity, which shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

C. A cultural/historic preservation easement described in section II(B) may be assigned to a governmental or other legal entity whose purposes include preservation or restoration of structures or sites described in section II(B), which shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

(Source: WOS 2004-01, July 25, 2004, Section VII)

4.808 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2004-01, July 25, 2004, Section VIII)

4.809 EFFECTIVE DATE

This Statute takes effect thirty days from the date of enactment.[from July 25, 2004]

(Source: WOS 2004-01, July 25, 2004, Section IX)

Chapter 9. Fishing Vessel Safety

4.901 INTRODUCTION / PURPOSE

In order to protect members engaged in commercial fishing pursuant to the rights reserved in the Treaty of 1836 and in accordance with the Memorandum of Understanding with the United States Coast Guard (USCG), the Little Traverse Bay Bands of Odawa Indians (LTBB) hereby enacts this Statute in an attempt to decrease the potential of death, personnel injury, and or property damage that may be associated with the high risk activity of commercial fishing. Any duly licensed LTBB commercial fisherman shall ensure that he and any vessel he may operate are in full compliance with the following safety provisions. Failure to comply with the following safety provisions could result in fines, suspension or revocation of fishing license.

(Source: WOS 2004-02, July 25, 2004, Section I)

4.902 DEFINITIONS

A. "**Auxiliary Craft**": a vessel that is carried onboard a commercial fishing vessel and is normally used to support fishing operations.

B. "**Buoyant Apparatus**": a buoyant apparatus approved by the Commandant.

C. "**Coast Guard**": a commissioned, warrant, or petty officer of the U.S. Coast Guard Boarding Officer having authority to board any vessel under the Act of August 4, 1949, 63 Stat. 502, as amended (14 U.S.C. 89).

D. "**Cold Waters**": water where the monthly mean low water temperature is normally 59º F (15º C) or less.

E. "**Commandant**": the Commandant of the U.S. Coast Guard or an authorized representative of the Commandant of the U.S. Coast Guard.

F. "**Commercial Fishing**": a fishing activity engaged in for the purpose of sale of fish or parts of fish.

G. "**Enforcement Officer**": any Tribal, Federal or State officer authorized under this Statute, the 2000 Great Lakes Consent Decree or the LTBB/USCG MOU to enforce LTBB fishing rules and regulations.

H. "**Fishing Vessel**": a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking or harvesting of fish.

I. "**Inflatable Buoyant Apparatus**": an inflatable buoyant apparatus approved by the Commandant.

J. "**Traditional Craft**": a vessel such as a dugout canoe, cedar strip or birch bark canoe, that is hand made and is not powered by anything other than hand paddles and the elements of nature.

K. "**USCG**": means the United States Coast Guard.

L. "**Warm Waters**": means water where the monthly mean low water temperature is normally above 59º F (15º C).

(Source: WOS 2004-02, July 25, 2004, Section II)

4.903 EQUIPMENT

A. Lights.

1. Vessels 39.4 feet and less are required to have the following:

a. Side lights: Sidelights that are visible from dead ahead to 22 ½ degrees abaft the beam (red port light and green starboard light).

b. Masthead and/or stern light: An all around white light.

2. Vessels over 39.4 feet are required to have the following:

a. Side lights: Sidelights that are visible from dead ahead to 22 ½ degrees abaft the beam (red port light and green starboard light).

b. Masthead and/or stern light: A stern light and a masthead light that shows dead ahead to 22 ½ degrees abaft the beam on either side.

B. Distress Signals.

1. Visual:

a. Vessels that operate within three miles of the Coastline of the Great Lakes are required to have the following:

i. Night visual distress signals: One electric distress light or 3 approved flares; and

ii. Day visual distress signals: One distress flag, or 3 approved flares, or 3 approved smoke signals.

b. Vessels that operate more than three miles from the Coastline of the Great Lakes are required to have the following:

i. 3 Parachute flares, 6 handheld flares, and 3 smoke signals.

2. Sound:

a. Vessels 39.4 feet and less are required to have the following:

i. A means of making an efficient sound signal audible within one nautical mile of the vessel.

b. Vessels over 39.4 feet are required to have the following:

i. Whistle and bell.

3. Emergency Position Indicating Radiobeacon (EPIRB):

a. Vessels less than 36 feet in length that operate more than three miles from the coastline of the Great Lakes are required to have the following:

i. A manually activated Category 2, 406 MHz EPIRB. The EPIRB shall be installed in a readily accessible location at or near the principle steering station; or

ii. A float free automatically activated Category 1, 406 MHz EPIRB. This EPIRB shall be stowed in the manner so that it will float-free if the vessel sinks; or

iii. Personal Category 2, 206 MHz EPIRB.

b. Vessels 36 feet or more in length that operate more than three miles from the coastline of the Great Lakes are required to have the following:

i. A float-free automatically activated Category 1, 406 MHz EPIRB. This EPIRB shall be stowed in a manner so that it will float-free if the vessel sinks.

c. Servicing/Maintenance: The captain or individual in charge of the vessel must

ensure that each EPIRB on board is in good working order and that it is tested and serviced as required by this section.

i. The EPIRB must be tested immediately after installation and at least once each month thereafter. The test shall be conducted in accordance with the manufactures instructions, using the visual or audio indicator on the EPIRB. Each test shall be recorded on a log to be kept on the vessel.

ii. Batteries for the EPIRB shall be replaced after the EPIRB deployed for any purpose other than testing and before the expiration date of the battery.

iii. All non-functioning or damaged EPIRB's must be replaced with an operational EPIRB.

d. Exceptions:

i. A skiff/work boat or auxiliary craft is not required to carry an EPIRB; if:

aa. Its "mother ship" is required to carry an EPIRB; and

bb. When not in use, the skiff/work boat or auxiliary craft is carried on board the mother ship.

C. Communication Equipment.

1. Each vessel must be equipped with an operational VHF FM handheld submersible ship to shore radio; or

2. An operational cell phone capable of communicating in the area fished.

D. Life Preservers and Personal Floatation Devices.

1. Types: Each vessel must be equipped with at least one immersion suit, exposure suit, or wearable personal flotation device (PFD) of the proper size for each individual on broad and as specified below. Each life preserver or PFD must be stowed so that it is readily accessible to the individual for whom it is intended.

a. Lake Superior: Immersion Suit.

b. Lake Michigan and Lake Huron:

i. Vessels 40 feet or more in Length: Type I, Type V commercial hybrid, immersion suit, or exposure suit.

ii. Vessels 40 feet or less in length: Type I, Type II, Type III, Type V commercial hybrid, immersion or exposure suit.

2. Markings: Each immersion suit, exposure suit or PFD must be marked with the name of either the vessel, the owner of the device, or the individual to whom it is assigned. The lettering used in marking must be in block capital letters.

3. Operation Readiness and Maintenance: The captain or individual in charge of the vessel must ensure that each immersion suits, exposure suits, or wearable PFD must be in good working order, ready for immediate use, and readily accessible before the vessel leaves port and at all times when the vessel is in operation.

4. Approved equipment/materials: All immersion suits, exposure suits, or wearable personal flotation devices must be equipped with a Coast Guard approved PFD light and have at least 31 square inches per side of retro-flective material attached to the front and back.

E. Throwable Floatation Device.

1. Types: Each vessel as specified below must be equipped with a throwable floatation device or ring buoy and a proper corresponding length of line.

a. Vessels less than 16 feet: No throwable flotation devices are required.

b. Vessels 16 feet or more but less than 26 feet: One (1) throwable buoyant cushion or ring buoy equipped with a line at least 60 feet in length.

c. Vessels 26 feet or more but less than 65 feet: One (1) orange Coast Guard approved ring buoy at least 24 inches in size equipped with a line at least 60 feet in length.

d. Vessels 65 feet or more: Three (3) orange ring buoys at least 24 inches in size each equipped with a line at least 90 feet in length.

2. Markings: All throwable flotation devices and ring buoys must be marked with the name of the vessel. The lettering used in marking must be in block capital letters.

3. Operation Readiness and Maintenance: The captain or individual in charge of the vessel must ensure that each throwable flotation device and/or ring buoy be in good working order, ready for immediate use, and readily accessible before the vessel leaves port and at all times when the vessel is in operation.

4. Approved equipment/materials: All throwable flotation devices and ring buoys must be U.S. Coast Guard certified or approved.

F. Survival Craft.

1. Warm Waters:

a. All vessels (regardless of length), which operate within three miles of the Great Lakes Coastline and have 3 or fewer people on board are not required to have a survival craft.

b. All vessels (regardless of length), which operate beyond three miles of the Great Lakes Coastline and have 3 or fewer people on board are required to have a

buoyant apparatus.

2. Cold Waters:

a. Vessels less than 36 feet in length are required to have a buoyant apparatus.

b. Vessels 36 feet in length or more are required to have an inflatable buoyant apparatus.

3. Markings: Each inflatable life raft, inflatable buoyant apparatus or any auxiliary craft used in their place must be marked with the name of either the vessel or the owner of the device. The lettering used in marking must be in block capital letters.

4. Operation Readiness and Maintenance: The captain or individual in charge of the vessel must ensure that each item of lifesaving equipment must be in good working order, ready for immediate use, and readily accessible before the vessel leaves port and at all times when the vessel is in operation.

G. Fire Extinguisher.

1. Vessels under 16 feet in length:

a. Must either have a fixed Fire Extinguishing System in the machinery space; or

b. One (1) B-I hand portable U.S. Coast Guard approved fire extinguisher.

2. Vessels 16 feet or more but less than 26 feet in length:

a. Must either have a fixed Fire Extinguishing System in the machinery space; or

b. One (1) B-I hand portable U.S. Coast Guard approved fire extinguisher.

3. Vessels 26 or more but less than 40 feet in length:

a. Must have a fixed Fire Extinguishing System in the machinery space and one (1) B-I hand portable U.S. Coast Guard approved fire extinguisher; or

b. Two (2) B-I hand portable U.S. Coast Guard approved fire extinguishers.

4. Vessels 40 feet or more but not over 65 feet in length:

a. Must have a fixed Fire Extinguishing System in the machinery space and two (2) B-I hand portable U.S. Coast Guard approved fire extinguishers; or

b. Three (3) B-I hand portable U.S. Coast Guard approved fire extinguishers.

(Source: WOS 2004-02, July 25, 2004, Section III)

4.904 ALCOHOL AND CONTROLLED SUBSTANCES

A. Operation of Fishing Vessel Under the Influence: No member shall operate a fishing vessel on the waters of the Ceded Territory if either one of the following applies:

1. The member is under the influence of intoxicating liquor or a controlled substance or combination thereof; or

2. The member has an alcohol content of .90 percent or higher; or

3. The intoxicant's effect on the member's manner, disposition, speech, muscular movement, general appearance, or behavior is apparent by observation.

B. Zero Tolerance Members under 21 Operating a Fishing Vessel Under the Influence: A member who is less than 21 years of age shall not operate a fishing vessel on the waters of the Ceded Territory if the member has any presence of alcohol within the member's body resulting from the consumption of intoxicating liquor.

C. Preliminary Chemical Breath Analysis: A duly authorized enforcement officer who has reasonable cause to believe that a member was operating a fishing vessel on the waters of the Ceded Territory and that by consumption of intoxicating liquor the member's ability to operate a vessel may have been affected or who has reasonable cause to believe that a member under the age of 21 was operating a fishing vessel while having any bodily alcohol content, that officer may require the member to submit to a preliminary chemical breath analysis. The results of such analysis may be used as the basis to issue a citation or other discipline.

D. Refusal to Submit Preliminary Chemical Breath Analysis: A member who refuses to submit to a preliminary chemical breath analysis upon the request of an officer shall be subject to a civil remedial forfeiture action with a maximum fine of up to $1,000.00.

(Source: WOS 2004-02, July 25, 2004, Section IV)

4.905 DOCKSIDE INSPECTIONS

A. Any vessel utilized for commercial fishing activities shall be inspected by duly authorized enforcement personnel at dockside every two (2) years. Proof of inspection shall be demonstrated by the affixing by enforcement personnel to the vessels outer hull a U.S. Coast Guard- approved Fishing Vessel Compliance decal.

(Source: WOS 2004-02, July 25, 2004, Section V)

4.906 REQUIRED DECALS

A. Injury Placard.

1. Each vessel must have posted in a highly visible location accessible to the crew a placard measuring at least 5 inches by 7 inches which reads:

Notice
Report of Injuries

United States law, 46 United States Code 100603, requires each seaman on a fishing vessel, fish processing vessel or fish tender vessel to notify the master (captain) or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or injury suffered by the seaman when in service to the vessel not later than seven days after the date on which the illness, disability or injury arose.

B. Discharge of Oil Prohibited.

1. All vessels 26 feet and larger in length must have a placard of at least 5 by 8 inches, made of durable material affixed to a conspicuous place in each machinery space, or at the bilge and ballast pump control station which read the following:

Notice
Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States, or the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to or under the exclusive management authority of the United States, if such discharge causes a film or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to substantial civil penalties and/or criminal sanctions including fines and imprisonment.

C. Discharge of Plastics / Garbage Prohibited.

1. All vessels 26 feet and larger in length must have a placard of at least 4 by 9 inches, made of durable material, with lettering at least 1/8 inch high and displayed in prominent locations and in sufficient numbers so that they can be read by the crew and passengers. The placard shall read as follows:

2.

Notice

Discharge of Plastics/Garbage Prohibited (MARPOL):

The discharge of all garbage into the Great Lakes or their connecting or tributary waters is prohibited. A person who violates the above requirements is liable for civil penalty for each violation, and the criminal penalties of a class D felony.

(Source: WOS 2004-02, July 25, 2004, Section VI)

4.907 ADDITIONAL PROVISIONS

A. It shall be criminal offense for any person to commit any of the following acts:

1. Carry any firearms on the vessel;

2. Assault, resist, oppose, impede, threaten, bribe or attempt to bribe or interfere with an officer engaged in enforcing any provisions of regulations found within this Statute;

3. Violate any court order relating to the use of a vessel or fishing activity; and

4. Violate sec.IV.A., IV.B. or IV.D [WOTC 4.904(A),(B) or (D)].

(Source: WOS 2004-02, July 25, 2004, Section VII)

4.908 ENFORCEMENT

A. Boardings.

1. To facilitate the boarding of vessels by the appropriate enforcement officer (U.S. Coast Guard or Tribal Conservation Enforcement Officer or State Officers) in the exercise of their authority, any vessel if underway and upon being hailed by the U. S. Coast Guard, Tribal Conservation Enforcement, or State Conservation Enforcement must stop immediately and lay to, or must maneuver in such a way to permit the boarding officer to come aboard. Failure to permit the Coast Guard or Tribal Conservation

Enforcement Officer to board a vessel or refusal to comply will subject the operator or owner of the vessel to the penalties provided by law.

2. Coast Guard, Tribal, and State boarding vessels will be identified by their corresponding insignias and enforcement markings. The boarding officers from each agency will be dressed in the appropriate Coast Guard, Tribal or State uniforms. The boarding officer upon boarding the vessel will identify himself to the captain, owner or operator and explain his mission.

(Source: WOS 2004-02, July 25, 2004, Section VIII)

4.909 PENALTIES

A. Termination of Voyage. An Enforcement Officer may direct the captain, owner or operator of the vessel to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the Enforcement Officer observes the vessel being operated in an unsafe manner and determines that an especially hazardous condition exists. The Enforcement Officer may terminate the voyage and instruct the captain, owner or operator of the vessel to return the vessel to a mooring, dock or shore until the hazardous condition is corrected. Hazardous conditions may include but are not limited to the following:

1. An insufficient type or number of lifesaving equipment onboard may include insufficient number of required PFD's, immersion suits, exposure suits or survival craft capacity;

2. Improperly maintained or non-operational PFD's, immersion suits, exposure suits or survival craft capacity;

3. An inoperable Emergency Position Indicating Radio Beacon (EPIRB);

4. Inoperable radio communication equipment (when required);

5. Inadequate fire fighting equipment on board;

6. Inoperable bilge system;

7. Intoxication of the captain (master) or individual in charge of the vessel;

8. A lack of adequate or operational navigation lights during periods of reduced visibility; and

9. Flooding or uncontrolled leakage in any space.

B. Vessel Use Restriction. No vessel may be used for commercial fishing, which has been found to violate any provision of this Statute until its owner or operator provides proper documentation to Tribal Court that the violation has been remedied. The Tribal Court may request that the vessel pass a dockside inspection to confirm the correction.

C. Penalties.

1. Violation of any applicable provisions found in sec. III.[WOTC 4.903] *Equipment*- up to $150.00. This monetary fine may be in addition the *Termination of Voyage* or any *Vessel Use Restrictions* that may be applied as stated above;

2. Failure to Display Required Decals- up to $75.00 per decal;

3. Failure to Report an Injury- up to $150.00;

4. Discharge of oil- up to $500.00;

5. Discharge of Plastics/Garbage- up to $500.00;

6. Failure to permit the Coast Guard or Tribal Conservation Enforcement to board a vessel or refusal to comply with their directives - up to $600.00;

7. Alcohol/Controlled Substance Related Violations:

a. Operation of Fishing Vessel Under the Influence - Offender may be

sentenced to a jail term not to exceed 180 days or to a fine not to exceed $2,000.00 or suspension of his/her commercial fishing license or to all or a combination thereof;

b. Members under 21 Operating a Fishing Vessel Under the Influence - Members under the age 21 who have not exceed the alcohol percentage in sec.IV.A.2 [WOTC 4.904(A)(2)]may be sentenced to a jail term not to exceed 30 days or a fine not to exceed $1,000.00 or suspension of his/her commercial fishing license or to all or a combination thereof;

c. Refusal to Submit Preliminary Chemical Breath Analysis- a maximum fine of up to $1000.00; and

8. Any other violations of this Statute not specifically mention in above- up to $400.

D. Arrest.

1. A Conservation Enforcement Officer or any other duly authorized enforcement officer may arrest a member without a warrant when the officer has reasonable cause to believe the member was the operator of a fishing vessel at the time it was involved in an accident and that member was in violation of sec. IV, A or B [WOTC 4.904(A) or (B)]; and

2. A Conservation Enforcement Officer or any other duly authorized enforcement officer may arrest a member without a warrant any person committing in his/her presence or view a violation of sec. VII [WOTC 4.907].

(Source: WOS 2004-02, July 25, 2004, Section IX)

4.910 EXEMPTIONS

A. Exemption Procedure. Tribal members may request exemptions from these and the parallel U.S. Coast Guard commercial fishing safety rules and regulations by submitting a written request to the U. S. Coast Guard District Office or the Little Traverse Bay Bands

of Odawa Indians Natural Resources Commission with joint authority in the waters where the vessel will be operating. The request must specify the reasons for the request in detail. Requests will be evaluated using the following criteria:

1. Good cause exists for granting the exemption; and

2. The safety of the vessel and those on board will not be adversely affected.

B. **Exemption Denial or Approval Letter**. The exemption request will be denied or approved in writing. Any copy of any exemption approved the Little Traverse Bay Bands of Odawa Indians shall be forwarded to the USCG. If approved, the member will receive an exemption letter specifying the terms and conditions of the exemption. This letter will then be required to be on the vessel to which the exemption applies at all times.

C. **Types of Exemptions**.

1. Specific Exemption: an exemption for an individual commercial fishing vessel.

2. Class Exemption: an exemption for a class or fleet of commercial fishing industry vessels.

D. **Right of Appeal**. Any person directly affected by a decision or action taken under this part may appeal in accordance with federal rules and regulations, or to LTBB Tribal Court in the event LTBB and the USCG enter into an agreement granting LTBB authority over such exemptions.

E. **Rescinding of an Exemption Letter**. Exemptions granted may be rescinded by the U.S. Coast Guard if it is subsequently determined that the safety of the vessel and those onboard is adversely affected.

F. **Traditional Craft**. Traditional Craft shall be exempt from all provisions and requirements except personal flotation devices in this statute provided that the Traditional Craft is not used as a supplement for a powered vessel and the captain and every crewmember on board during any commercial fishing operations have provided the Natural Resources

Commission with signed and witnessed statements indicating the following: “I understand the inherent risk to life and limb while engaging in fishing operations and I have chosen of my own free will to fish from a Traditional Craft with no requirements for modern safety devices with the knowledge that these requirements were enacted in an attempt to decrease the potential of death, personal injury and or property damage that may be associated with the high risk activity of commercial fishing.” This exemption requires no application and is effective upon receipt of the appropriate signed statements and cannot be revoked.

(Source: WOS 2004-02, July 25, 2004, Section X)

4.911 LIMITATIONS

Nothing within this Statute shall be constructed to limit the authority of the Tribal Council from adopting more stringent commercial fishing vessel safety regulations than those set forth in this Statute.

(Source: WOS 2004-02, July 25, 2004, Section XI)

4.912 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this Statute found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such phrase, part, 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.

(Source: WOS 2004-02, July 25, 2004, Section XII)

4.913 EFFECTIVE DATE

This Statute shall take effect thirty (30) days from the day of its enactment [July 25, 2004] by Tribal Council.

(Source: WOS 2004-02, July 25, 2004, Section XIII)

Chapter 10. Act Prohibiting the Patenting of Organisms

4.1001 PREAMBLE AND GENERAL DEFINITIONS

The purpose of this Act Prohibiting the Patenting of Organisms is the protection of the health, welfare and economic security of the Tribe through the control of the patenting of natural organisms within the Tribe's jurisdiction.

The Tribe recognizes that the biodiversity of its territory encompasses the full range of genes, species and ecosystems within its jurisdiction. This biodiversity constitutes an essential resource for the Tribe because it produces the varied plants, animals and organisms that together provide the Tribe with food, medicinal plants, energy, fibers, materials for shelter and warmth, materials for the creation of art and materials for ceremonial use.

The Tribe also recognizes that the biodiversity of its territory creates several finely-balanced ecosystems, and that these ecosystems purify the air and water, stabilize and moderate the climate, and decrease flooding, drought and other environmental disasters.

Furthermore, the Tribe recognizes that the biodiversity of its territory creates harmony between the Tribe and nature and fosters the ethical and peaceful co-existence of the Tribe with the living species surrounding it.

The Tribe finds that by providing food for sustenance, medication, energy and protection from the elements, the Tribe's biodiversity sustains the health of all Tribal members. In addition, the Tribe finds that by providing materials that sustain health and materials that are essential to the Tribe's traditional knowledge, artforms, and ceremonies, the Tribe's biodiversity sustains the welfare of all Tribal members. Finally, the Tribe finds that by providing food and other goods that can be exchanged for sale, and by stabilizing the climate and preventing natural disasters, the Tribe's biodiversity creates an environment conducive for economic activity and security. Thus, in light of the fundamental resource that the biodiversity of its territory constitutes, the Tribe finds that conservation of its biodiversity is essential to protect the health, welfare and economic security of all present and future generations of the Tribe.

The Tribe recognizes that scientists from firms and research facilities are mining indigenous communities for unique organisms that may be used for the creation of new agricultural and pharmaceutical products. Such firms and research facilities frequently attempt to acquire samples of organisms and obtain an exclusive property right in the organisms by patenting them. The Tribe finds that although the intent of the patenting is frequently to prevent competition by other firms and research facilities, the effects can be much more far-reaching. The Tribe recognizes that the patenting of organisms threatens the loss of biodiversity by limiting access to genetic variants through the enforcement of proprietary rights and by encouraging the spread of a single variant of an organism in place of other natural variations. For these reasons, the patenting of organisms threatens the Tribe's health, welfare and economic security.

(WOS 2004-03, July 25, 2004, Section I)

4.1002 DEFINITIONS

The following definitions apply to this Statute:

A. "**Jurisdiction**" means the jurisdiction of the Tribe as defined in the Tribe's Constitution.

B. "**Organism**" means a whole, living, viable entity; a genetic structure, whether that structure comprises all or only a portion of an entity or a total genetic structure of an entity; and a reproductive cell or developmental stage of an organism.

C. "**Person**" means an individual person and any corporation, partnership, limited liability company, or any other form of legal entity.

D. "**Tribe**" means the Waganakising Odawak, also known as the Little Traverse Bay Bands of Odawa Indians.

(WOS 2004-03, July 25, 2004, Section II)

4.1003 PROHIBITION AGAINST PATENTING OF ORGANISMS

Within the jurisdiction of the Tribe, no person may patent or claim any exclusive property

interest in the makeup of any organism.

(WOS 2004-03, July 25, 2004, Section III)

4.1004 PENALTY

Within the jurisdiction of the Tribe, any person who attempts to or successfully patents or claims any property interest in any organism will have their equipment and research materials confiscated by the Tribe and to the extent allowed under the Tribe's Constitution and applicable law, may be banished from the Tribe's territory and denied permission and access for any research activities related to such organism.

(WOS 2004-03, July 25, 2004, Section IV)

4.1005 ENFORCEMENT

The Tribal Prosecutor shall have the authority to enforce this statute by bringing an action against any person accused of violating this statute in Tribal Court and obtaining a Tribal Court order providing for relief in the form of the penalties described in Section IV [WOTC 4.1004] above.

(WOS 2004-03, July 25, 2004, Section V)

4.1006 SAVINGS CLAUSE

In the event that any phrase, part, provision, 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, part, 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.

(WOS 2004-03, July 25, 2004, Section VI)

4.1007 EFFECTIVE DATE

This Statute takes effect thirty (30) days from the date of its enactment [July 25, 2004].

(WOS 2004-03, July 25, 2004, Section VII)

Chapter 11. Natural Resource Protection

4.1101 SHORT TITLE

This Statute shall be known and cited as the Little Traverse Bay Bands of Odawa Indians' "Natural Resource Protection Statute."

(WOS 2008-12, October 5, 2008, Section I)

4.1102 PURPOSE

The purpose of this Statute is to protect the environment, natural resources and the Treaty reserved rights of the Tribe while promoting, honoring and respecting the traditional, spiritual, subsistence and commercial use of the Tribe's natural resources. This Statute establishes the responsibilities, powers, and duties of the Natural Resource Department and its Tribal Conservation Enforcement Division; creates certain natural resource related funds and prescribes penalties.

(WOS 2008-12, October 5, 2008, Section II)

4.1103 DEFINITIONS

A. "**Ceded Territory**" means all lands and waters ceded in the 1836 Treaty of Washington, 7 Stat. 491, as described in Article First, that are not LTBB Reservation lands or within the reservation of another federally recognized Tribe.

B. **"Commission"** or **"NRC"** means the Natural Resource Commission.

C. **"Department"** means the Natural Resource Department.

D. **"Director"** means the director of the Natural Resource Department.

E. **"Executive"** means the Tribal Chairperson and Vice-Chairperson of the Executive Branch created under Article VIII of the Constitution, including their designees.

F. **"Firearm"** means a weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.

G. **"LTBB Reservation"** means all lands and waters as described in the LTBB Constitution Article III (H).

H. **"Non-member Indian**" means a person who is an enrolled member of another federally recognized Indian Tribe other than the Little Traverse Bay Bands of Odawa Indians.

I. **"Officer"** means a Tribal Conservation Enforcement Officer as described in Section VII of this Statute.

J. **"Reservation Trust Properties"** means land held in trust for LTBB by the United States.

K. **"Tribe"** or **"LTBB"** means the Waganakising Odawa, also known as the Little Traverse Bay Bands of Odawa Indians.

L. **"Tribal Court"** means the LTBB Court created under Article IX of the LTBB Constitution.

M. **"Tribal Citizen"** means an enrolled member of LTBB.

N. **"Watercraft"** means any boat or other floating device of rigid or inflatable construction which is designed to carry people or things on the water.

O. **"Wildlife"** means all creatures, not human, wild by nature, endowed with sensation, and power of voluntary motion, which includes but not limited to quadrupeds, mammals, birds, fish,

amphibians, reptiles, crustaceans, insects, and mollusks.

(WOS 2008-12, October 5, 2008, Section III)

4.1104 JURISDICTION

In accordance with Article IV (B) of the LTBB Constitution the jurisdiction of the Tribe "shall extend to all territory set forth in Section (A) of this Article [the LTBB Reservation and trust lands] and to any and all persons or activities therein based upon the inherent sovereign authority of the Little Traverse Bay Bands of Odawa Indians and Federal law." Without conceding any of the LTBB Constitutional jurisdictions, regulation of wildlife, fish and other natural resources activities under this Statute will extend to the following persons and areas:

A. LTBB Citizens and non-member Indians anywhere within the LTBB Reservation, including both civil and criminal jurisdiction;

B. All persons within Reservation Trust Properties, except in the case on non-Indians only the exercise of civil jurisdiction; and

C. LTBB Citizens exercising their Treaty rights throughout the 1836 Ceded Territory, including both civil and criminal jurisdiction.

This Statute does not preclude any concurrent federal jurisdiction under applicable federal law.

(WOS 2008-12, October 5, 2008, Section IV)

4.1105 NATURAL RESOURCE COMMISSION

This Statute is not intended to add or diminish the duties and responsibilities of the Natural Resource Commission under WAGANAKISING STATUTE 2005-01, as may be amended.

(WOS 2008-12, October 5, 2008, Section V)

4.1106 NATURAL RESOURCE DEPARTMENT

The Natural Resource Department for the Tribe is hereby created as an Executive Department and each annual budget submitted by the Executive shall include funding for the Department's operation. The Department falls under the purview of Executive oversight and has the following duties and powers:

A. Promote and protect the Treaty Rights reserved to LTBB Tribal Citizens and ensure that Tribal Citizens rights are not obstructed or interfered with while lawfully exercising such rights.

B. Protect and conserve the natural resources of the Tribe through management, biological monitoring, research, and enhancement activities;

C. Issue NRC authorized permits, licenses and collect costs for such, including registration of vessels and vehicles used principally for exercise of Treaty Rights;

D. Represent the Tribe and its natural resource related interests on international, federal, tribal, state and inter-agency natural resource related boards, commissions, or organizations with the direction or concurrence of the Executive;

E. Recommend to the NRC and Executive Branch, policies and long range programs for the management and preservation of fish, wildlife and other natural resources;

F. Under the direction of the Executive, negotiate intergovernmental agreements, including but not limited to, cross-deputization agreements, with tribal, federal, state or local governments and their political subdivisions, and agreements with private entities, subject to Tribal Council approval;

G. Management of the Tribe's parks, campgrounds, wild areas, preserves, research areas, forests, docks, boat launches/access sites, or other similar natural or outdoor recreation areas;

H. Establishment of natural resource related procedures and regulations as may be necessary in accordance with duties, powers and responsibilities of this Statute, subject to Tribal Council approval where necessary under the LTBB Constitution;

I. Enforcement of Tribal natural resource related regulations, statutes and laws;

J. Hire and employ appropriately trained and/or certified staff as may be necessary in accordance with the duties, powers and responsibilities of this Statute;

K. Provide training to LTBB Citizens in hunting safety and the safe handling of firearms, bows or other legal devices and safe use and maintenance of boats and other vehicles used to harvest treaty resources;

(WOS 2008-12, October 5, 2008, Section VI)

4.1107 TRIBAL CONSERVATION ENFORCEMENT DIVISION

A. The Conservation Enforcement Division is hereby created within the Natural Resources Department to aid in the enforcement of Tribal laws and regulations concerning the protection of natural resources, such as hunting, fishing and gathering.

B. **Tribal Conservation Enforcement Officers.** The Department shall employ Tribal Conservation Enforcement Officer(s) to carry out the duties and functions of the Division. Officers are law enforcement officers of LTBB, exercising the primary and secondary duties as set forth and limited in subsection C of this Section, possessing all of the privileges, powers and immunities of any such officer.

1. Requirements. A person selected to become an Officer shall meet and maintain the following minimum requirements:

a. Have legal residency in the United States;

b. Have attained a minimum of 21 years of age;

c. Have earned a high school diploma or have attained a passing score on the general education development test indicating a high school graduation level. Attainment of an associate or baccalaureate degree shall be evidence of having

met this standard;

d. Have no prior felony convictions, including expungements and set asides;

e. Have never been convicted of a misdemeanor of domestic violence (Tribal, state or federal);

f. Possess good moral character as determined by a favorable comprehensive background investigation covering school and employment records, home environment, personal traits and integrity. Consideration shall be given to a history of, and circumstances pertaining to, all law violations, including traffic and conservation law convictions, as indicating lack of good moral character;

g. Possess a valid motor vehicle operator's license. Driving privileges shall not be in a state of suspension, revocation, or denial at the time of entry into a law enforcement academy or activation as an Officer;

h. Read and write at a level necessary to perform the job of an Officer;

i. Test negative for the illicit use of a controlled substance(s);

j. Successfully completed the basic law enforcement training recognized by the Tribe including such academy or programs of the United States Indian Police Academy, State of Michigan, a post agency in another state, or a federally operated law enforcement academy;

k. Pass pre-enrollment physical fitness test;

l. Comply with all the following:

i. free from any other impediment of the senses;
ii. physically sound;

m. Be free from the following, which may impair the performance of the

essential job functions of an Officer or which may endanger the lives of others or the Officer:

i. physical defects;
ii. chronic diseases;
iii. mental and emotional instabilities.

2. Physical Fitness.

Officers must maintain an acceptable level of fitness and readiness during the term of their employment. Officer fitness shall be periodically evaluated during employment or upon request of the Chief Conservation Officer and/or Director, by successfully completing an approved physical efficiency battery.

3. Oath of Office.

Officers shall be sworn in by a Tribal judge to support, uphold, and defend the Constitution of the Tribe and to enforce the laws and regulations of the Tribe in accordance with this Statute.

4. Firearms.

Officers are authorized to carry firearms in the performance of their duties and are required to qualify semi-annually at a score of 80% (240) or better under the direction of a certified firearms instructor in accordance with Federal Law Enforcement Training Center firearm standards.

5. Authorities.

Officers shall have the following authority in their enforcement of criminal and civil violations within the jurisdiction of the Tribe:

a. Execute any process for enforcement of this Statute and/or any other natural

resource, regulations or laws of the Tribe;

b. Issue citations for violations of this Statute and/or any other natural resource regulations or laws of the Tribe.

c. Execute warrants issued for the arrest of violators of this Statute and/or any other natural resource regulations or laws of the Tribe;

d. Arrest, without warrant, any person committing a criminal violation in his/her presence;

e. Make arrests and issue citations for any violation within LTBB jurisdiction when in the course of carrying out their primary duties they encounter people with outstanding warrants, or who commit violations in their presence.

f. Serve subpoenas or other legal documents issued in matters arising under this Statute and/or any other natural resource regulations or laws of the Tribe;

g. Search and Seizures. Execute searches with or without a warrant for matters arising under this Statute and/or any other natural resource regulations or laws in accordance with the provisions below.

h. Any Officer may conduct a search of an object, place or person whose conduct is regulated by this Statute and/or any other natural resource regulations or laws of the Tribe, and may seize items when the search is made:

- **i.** with consent;
- **ii.** pursuant to a valid search warrant;
- **iii.** incident to the issuance of a lawfully issued citation;
- **iv.** with the authority and within the scope of a right of lawful inspection; or
- **v.** as otherwise authorized by law or by provisions of this Statute.

i. Any Officer may conduct routine inspections, in a manner and at such times and

locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, boats, wagons, trailers, automobiles, snowmobiles, off-road vehicles, containers, packages, and other receptacles contained therein, utilized by a person in harvest activity authorized by this Statute.

j. If the Officer has probable cause to believe that contraband, fish, vegetation, wildlife or parts thereof taken in violation of this and/or other natural resource statutes, laws or regulations, or the instrumentalities of such illegal taking, are contained therein, the Officer may, without a search warrant, search any person, aircraft, watercraft, motorized vehicle, box, wildlife, fish, bag, locker, tool box, ice chest, camper, camper shell, trailer, backpack, bedroll, sleeping bag, or other container or package.

k. If the Officer has probable cause to believe wildlife or parts have been taken, possessed, or transported in violation of this and/or other natural resource statutes, and that any object has been used as the instrumentality of such illegal taking, the Officer may inspect all such wildlife, parts or objects, and may seize them as evidence.

l. For all property seized as evidence, the Officer shall make an inventory and provide a copy to the person from whom the property was taken. All property seized shall be stored, returned and/or disposed of pursuant to policy.

m. Detainment and Apprehension of Suspected Violators. Any Officer who has reasonable grounds to believe that a person has violated this Statute and/or any other natural resource regulations or laws of the Tribe, either in or out of the Officer's presence, shall identify himself or herself to such person and promptly determine whether the person is a tribal member or non-member Indian, or non-Indian. In making such determination, the Officer may demand identification and take actions as the Officer reasonably believes are necessary to make the determination.

n. If an Officer reasonably suspects there is a violation, the Officer may stop and board any boat and stop any vehicle.

o. If an Officer has probable cause to believe that any provision this Statute and/or any other natural resource regulations or laws of the Tribe have been violated, the Officer may enter into or upon any private or public property for any purpose in Section VII.B.5.h (Search and Seizure) or for the purpose of patrolling, investigating, or examining. The term "private property" as used in this section does not include dwellings or dwelling houses or that which is within the curtilage of any dwelling house.

p. Use of Force

i. Officers are authorized to use force only to a level which is necessary, reasonable and appropriate to achieve the desired legal objective or to protect himself/herself or others from an immediate threat of death or serious physical injury.

ii. Reporting Use of Force. A written report shall be required for each of the following situations:

a) when a firearm is drawn and/or is discharged outside of the firing range.
b) when a non-lethal weapon is used.
c) when use of force results in death or injury.

iii. Supervisor Summons. A supervisor or investigator shall be summoned to the scene in the following situations involving the use of force.

a) when a subject communicates that an injury has been inflicted,
b) when a firearm is discharged as a means of force,
c) when use of force results in death or injury.

iv. Administrative Review. All reported use of force incidents shall be reviewed by the appropriate supervisor to determine whether:

a) any laws or departmental policies were violated. All incidents involving the use of force that causes death shall be subject to both an administrative and criminal investigation.

b) the relevant policy was clearly understandable and effective to cover the situation.

c) training is currently adequate.

v. Annual Report. An annual summary of incidents involving the use of force will be prepared and submitted to the Executive Branch and Tribal Council on an annual basis.

C. Primary and secondary duties of the Division include, but are not limited to:

1. Primary Duties:

a. enforcement of this Statute and any other natural resource related LTBB regulation or statute;

b. enforcement of natural resource related federal/state laws or laws of another tribe to the extent that Officers are authorized through Tribal Council approved deputization, special commissions, agreements, or memoranda of understanding/agreements (MOU/MOA);

c. promote and protect the Treaty rights of Tribal Citizens.

2. Secondary Duties:

a. provide aid or assistance to other law enforcement agencies when requested by a law enforcement agency;

b. perform and participate in search and rescue operations when its Officers encounter emergency situations in the course of carrying out their duties or when requested by a law enforcement or public safety agency;

c. perform and participate in emergency management activities when requested by the Executive;

d. to take necessary and appropriate actions to enforce violations of civil or criminal law whether or not directly related to natural resource protection when in the course of carrying out their primary duties its Officers encounter situations requiring law enforcement intervention to protect the public safety;

e. participate in homeland security activities as requested by the Executive;

f. request aid of other law enforcement agencies when prudent to do so to address situations encountered in the course of carrying out primary duties.

D. Policies and Procedures. The Tribal Conservation Enforcement Division shall have in place and adhere to written Conservation enforcement policies and procedures as approved by the NRC, subject to Tribal Council approval where necessary under the LTBB Constitution.

(WOS 2008-12, October 5, 2008, Section VII)

4.1108 PERSONS AUTHORIZED TO FISH, HUNT, TRAP AND GATHER

A. Tribal Citizens may exercise fishing, hunting, trapping and gathering rights within the Reservation and Ceded Territory subject to LTBB natural resource related regulations and laws.

B. Non-member Indians and non-Indians may exercise the privilege to fish, hunt, trap and gather on the LTBB Reservation pursuant to LTBB regulations, statutes and law in accordance with the following provisions:

1. Non-member Indians must have a properly issued and valid LTBB license and/or accompanying permit in order to take or attempt to take any wildlife, fish or plant species from lands within the LTBB Reservation.

2. Non-member Indians and non-Indians must have a properly issued and valid LTBB license and/or accompanying permit in order to take or attempt to take any

wildlife, fish or plant species from Reservation Trust Properties. Failure to secure a proper permit or license may subject the violator to civil prosecution in tribal court and/or federal prosecution.

(WOS 2008-12, October 5, 2008, Section VIII)

4.1109 SCIENTIFIC RESEARCH AND STUDY, NUISANCE ANIMALS

A. The Director may authorize the Department's staff, its agents or contractors to conduct biological monitoring, research, and enhancement activities of wildlife or plants.

B. Scientific Collectors Permit

1. In accordance with this section and any terms and conditions that may be established pursuant to the administrative procedures developed in accordance with this Statute, a scientific collectors permit issued by the Department is required and shall entitle a Tribal employee to take, possess, inspect, sample, measure, count or collect data on fish, wildlife, plant or invertebrate for scientific, management and/or enhancement purposes within the LTBB Reservation and/or throughout the1836 Ceded Territory. This section shall further apply to any person intending to conduct data collection or sampling within any LTBB Reservation trust properties.

2. Failure to obtain a permit or any sampling or data collection activity conducted in violation of the procedures established by the Department shall constitute a violation. Violations may result in revocation of issued permits and/or penalties set out in LTBB statutes or regulations.

3. The Director may suspend the permit of any person if he or she reasonably believes that at any time such person is in violation of this section or his or her actions threaten the fish and wildlife resources of the Tribe and that immediate action is necessary to protect such resources.

C. Nuisance Animals- The Director may issue special use permits on such terms and conditions as he or she deems necessary or appropriate to take wild animals subject to regulated

harvest that are damaging or about to damage property owned by the Tribe or a Tribal Citizen. The permit shall require the Citizen to report the outcome of the permitted action.

(WOS 2008-12, October 5, 2008, Section IX)

4.1110 ENFORCEMENT

A. Officers and other tribal, state and federal law enforcement agencies or personnel as authorized through Tribal Council approved deputization agreements, memoranda of understanding, court order, or compacts are authorized to enforce provisions of this and other LTBB natural resource statutes, laws or regulations.

B. Civil Infractions - Regulations promulgated in accordance with this Statute and WAGANAKISING ODAWAK STATUTE 2001-04 are civil in nature. Violations may be punished by suspension or revocation of the fishing, hunting, trapping license or any permit(s) of the violator, assessment of a fine of not less than $50.00 or no more than $1,000.00, assessment of community service hours, forfeitures as set forth below, restitution as set forth below or by any combination thereof and any other applicable penalty provided for by the laws of the Tribe.

C. Increased Penalties. Penalties may be increased up to three times the amount of the penalty of offense if:

1. The violator is found liable for the second or any subsequent violation of the same provision; or

2. The violator issues a check in payment of a penalty imposed under this Statute and/or any other natural resource regulations or laws of the Tribe knowing there are insufficient funds on deposit with the bank to ensure payment of the check on its presentation.

D. Contempt - To compel compliance with a lawful court order, all defendants to actions brought under this Statute, other natural resource regulations or laws of the Tribe, whether Member, Nonmember or Non-Indian, shall be subject to the contempt power of the Little

Traverse Bay Bands of Odawa Indians Tribal Court, and may be sanctioned by any means provided for by LTBB law or Court Rule including, but not limited to, imprisonment or other fines or penalties.

E. Restitution.

1. Any person convicted of any violation of this Statute and/or any other natural resource regulations or laws of the Tribe may, at the Court's discretion, be charged the cost of providing equitable restitution to the Tribe for the damage caused by each violation in addition to any other fines or penalties imposed by the Tribal Court.

2. The Commission shall prepare, annually and, as necessary, revise a schedule of damages calculated to closely approximate the cost of providing equitable restitution to the Tribe for the damage which would be caused by violations of this Statute and/or any other natural resource regulations or laws of the Tribe. The schedule of damages may be used as a guideline by the Tribal Court and may not be all inclusive. In calculating these damages the Commission may consider, in addition to any other factors reasonably deemed relevant:

a. The cost to the Tribe of producing and/or protecting the resource;

b. The cost of replacing or restoring the resource;

c. The costs of enforcement including the general overall costs and costs particularized to individual violations where appropriate;

d. The loss to the Tribe of license revenue;

e. Damages for trespass.

3. The Department shall publish the schedule of damages and cause it to be made available to the public at all permit outlets.

4. Since in most instances the exact amount of damages caused to the Tribe by a particular violation will be difficult or impossible to determine, it may be presumed by the court adjudicating a complaint for violation that the amount fixed by the schedule of damages represents the damages owed to the Tribe as restitution if the defendant is found to be liable. This presumption may be rebutted by evidence which shows by clear and convincing evidence that the amount indicated by the schedule of damages is so excessive in a particular case as to be punitive or so inadequate in a particular case as to result in a gross deprivation of adequate restitution. In any case in which the presumption is successfully rebutted, the parties may introduce evidence to prove the actual damages as in any other civil case.

5. All persons shall be deemed to have consented to the restitution provisions of this Statute by their entry onto the Reservation, and where applicable, by their signature on Tribal licenses or permits.

F. Forfeiture.

1. Officers may detain, in accordance with Section ***(m) any person(s) committing an offense and may seize or confiscate any fish, game, furbearers, wild animals, their parts or hides and/or any vehicles, vessels, firearms, bow, traps, nets, lines or any other associated paraphernalia used in committing the offense. All seized or confiscated material taken under this part shall be held as evidence according to applicable tribal law enforcement policies or agreements.

2. After adjudicating the underlying complaints for the illegal possession or use, the Court shall dictate the disposal of the seized resource or property.

a. Return of the property: If the accused is found not guilty or charges have been dismissed according court action, all seized non-perishable property shall be returned to the owner in the condition it was received. Persons who have had perishable items seized such as game or fish shall be compensated according to the developed damages schedule.

b. Forfeiture: Any person convicted of any violation of this Statute and/or any other natural resource regulations or laws of the Tribe may, at the Court's discretion, have any property or resources seized permanently confiscated in lieu of fines or in addition to fines or other penalties.

c. All confiscated property shall be disposed of according to regulations developed by the Commission which may include destruction of property, sale, retention, use by the Department or donation to a food bank.

d. The Department shall prepare a report of all game, fish and property seized by the Officers showing a description of the items, the persons from whom they were seized, if known, and the disposition of the items. This report shall be prepared annually and kept by the Department.

H. Collection of Money Penalties. Enforcement of the money penalties imposed pursuant to this Statute may be had through the collection of penalties from funds of the violator held by the Tribe if otherwise legally permissible, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

I. Schedule of Money Penalties. The NRC may adopt a schedule of fines and/or forfeitures that may be imposed by the Court upon the receipt of an admission of guilt or plea of no contest for violations committed. This schedule shall not apply as to penalties assessed by the court after adjudicating a violation where the defendant has entered a plea of not guilty.

J. State Jurisdiction Preempted. It shall not be a defense to any infraction under this Statute or any LTBB natural resource regulation or law that the alleged activity may be lawful under state law.

K. Federal Prosecution. Nothing in this Statute shall be deemed to preclude federal prosecution under applicable federal law. Federal prosecution may be pursued in addition to or in lieu of other enforcement procedures provided by this Statute.

(WOS 2008-12, October 5, 2008, Section X)

4.1111 ENHANCEMENT AND EDUCATIONAL ACTIVITIES

A. The annual Department budget shall include a line item to enhance tribal treaty harvest opportunities, to provide harvest based assistance and educational programs and to fund the NRC's annual "Public Information Meeting" as established in Section III.B of the Waganakising Odawak Statute 2001-04.

B. All fees resulting from the sale of licenses, registrations permits or tags by the Department and its agents, and all fines, costs, monies, penalties, damages or revenue from the sale of confiscated property collected for violation of this Statute and/or any other natural resource regulations or laws of the Tribe shall be deposited into the General Fund.

C. Each Tribal judge or clerk of the Court shall, within twenty (20) days after judgment has been rendered under the provisions of this Statute, remit to the Tribal Chief Financial Officer (CFO) all fines, forfeitures, damages or penalties collected to be deposited into the General Fund.

D. Any revenue derived from the sale of tribally owned natural resources shall be collected and deposited into the General Fund.

E. Any royalties derived from leases established to remove and provide for sale natural resources or minerals from LTBB owned properties shall be collected and deposited into the General Fund.

(WOS 2008-12, October 5, 2008, Section XI)

4.1112 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(WOS 2008-12, October 5, 2008, Section XIII)

4.1113 EFFECTIVE DATE

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

(WOS 2008-12, October 5, 2008, Section XIV)

TITLE V. CHILD WELFARE

Chapter 1. Child Protection Statute

5.101 CHILDREN'S COURT DIVISION

A. While proceeding under this Statute, the Court shall be termed the Children's Court Division of the Little Traverse Bay Bands of Odawa Indians Tribal Court.

B. The general public shall be excluded from the proceedings and only the parties, their counsel, witnesses, and other persons determined necessary or useful to the proceedings by the Court shall be admitted.

C. This Statute repeals and replaces any previous Child Welfare Code, including Waganakising Odawak Statute 1998016, and Waganakising Odawak Statute 2006-018 as amended.

(Source: WOS 2006-18, September 18, 2006, Section I)

5.102 PURPOSE

A. Children are the Tribe's most vital and cherished resource. The Tribe's future depends on the health and well being of its children. Children have a sacred right to receive the care and guidance necessary for their spiritual, emotional, mental and physical development. Feeling pride from their identity as Odawak will help them grow into strong, healthy responsible adult Tribal Citizens.

B. The purpose of this Statute is to ensure that children receive their rightful care, and to protect them from abuse and neglect, by helping and treating families, and placing children when necessary for their care. Specifically:

1. The Court shall protect the rights and interests of its young by proceeding with a course of action that will provide for the welfare, care and protection of its Children and their Families;

2. To preserve the unity of the family by separating the children from their parents and siblings, only as a course of last resort;

3. To take action that will best meet the spiritual, emotional, mental, and physical needs of the Children, and preserve the interest and culture of the Tribe;

4. To recognize and acknowledge the Tribal customs and practices of;

5. To preserve and strengthen children's cultural ethnic identity whenever possible;

6. To provide procedures for intervention in state court proceedings involving Indian children and for the transfer of jurisdiction over Indian children from state and other Indian courts to the Little Traverse Bay Bands of Odawa Indians Tribal Court;

7. To secure the rights of and ensure fairness to the children, their parents, guardians, custodians, extended family members, and other parties who come before this Court under the provisions of this Statute;

8. To provide a continuum of services for children and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early

intervention and community based alternatives; and

9. To transfer appropriate cases to any traditional or alternative dispute resolution body created by the Tribe.

(Source: WOS 2006-18, September 18, 2006, Section II)

5.103 CHARACTER INVESTIGATIONS

Pursuant to the Indian Child Protection and Family Prevention Act, 25 U.S.C. Chapter 34 Section 3207, Tribal employees or prospective employees whose duties involve regular contact with, or control over, Indian children must meet minimum standards for such employment. The Tribe shall conduct an investigation of the character of each individual so employed or under consideration for such employment. The Tribe shall not employ individuals in such positions if they have been convicted of any offense under Federal, State, or Tribal law involving crimes of sexual assault, molestation, exploitation, or prostitution. If an individual has a conviction involving violence, the Tribe shall not employ that person unless the person has been certified as rehabilitated by the Tribal Court.

(Source: WOS 2006-18, September 18, 2006, Section III)

5.104 DEFINITIONS

For the purposes of this Statute only, the words and phrases shall have the meanings delineated below. The plural encompasses the singular, and the singular encompasses the plural wherever appropriate.

A. "**Abandon**" When the parent leaves a child without communication or fails to support the child and there is no indication of the parent's willingness to assume their parental role for a period exceeding six (6) months.

B. "**Adult**" A person eighteen (18) years of age or older or other wise emancipated by order of a Court of competent jurisdiction.

C. "**Active Efforts**" Exhaustive proactive assistance to parents, guardians and custodians in developing and completing service goals.

D. "**Best Interests of the Child**" As used in this statute, means the sum total of the following factors to be considered, evaluated, and determined by the Court:

1. The love, affection, and other emotional ties existing between the parties involved and the child;

2. The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any;

3. The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of the Tribe in place of medical care, and other material needs;

4. The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity;

5. The permanence, as a family unit, of the existing or proposed custodial home or homes;

6. The moral fitness of the parties involved;

7. The mental and physical health of the parties involved;

8. The home, school, and community record of the child;

9. The reasonable preference of the child, if the Court considers the child to be of sufficient age to express preference;

10. The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or

the child and the parents;

11. Domestic violence, regardless of whether the violence was directed against or witnessed by the child; and

12. Any other factor considered by the Court to be relevant.

E. **"Best Interest of the Tribe"** is to protect the best interests of Indian children and to promte the stability and security of Indian Tribes and families.

F. "**Child**" Any unmarried person who is less than eighteen (18) years of age, and has not been emancipated by order of a court of competent jurisdiction, or a person who is eighteen (18) years of age, but remains under the continuing jurisdiction of the Court.

G. "**Child born out of wedlock**" A child conceived and born to a woman who is unmarried from the conception to the birth of the child, or a child determined by judicial notice or otherwise to have been conceived or born during a marriage but who is not the issue of that marriage.

H. "**Child in need of care**" A child:

1. Who has no parent, guardian or custodian available and willing to care for him/her;

2. Who has suffered or is likely to suffer a physical injury, inflicted upon him/her by other than accidental means, which causes or creates a risk of death, disfigurement, or impairment of bodily function;

3. Whose parent, guardian or custodian has not, for reasons other than poverty, provided adequate food, clothing, shelter, medical care, education, or supervision necessary for his/her health and well being. The fact that one of the parents, guardian or custodian is providing adequate food, clothing, shelter, medical care, education, or supervision necessary for the health and well-being of a child, does not excuse the neglect of the offending parent, guardian or custodian;

4. Who has been sexually abused or exploited by a parent, guardian or custodian either intentionally, or negligently;

5. Whose parent had the opportunity to prevent physical injury or physical or sexual abuse, failed to do so;

6. Who has committed delinquent acts as a result of parental pressure, guidance, approval or failure to properly supervise;

7. Who has been emotionally and/or psychologically abused or neglected;

8. Who is born addicted to alcohol or exposed to a controlled substance, which has resulted in physical and/or mental harm to the child;

9. Whose parents are separated and no court of competent jurisdiction has issued a temporary custody and support order;

10. Whose parent has been convicted of a violent or criminal sexual crime against the other parent or a sibling of the child;

11. Whose parent has been convicted of a crime of a nature that demonstrates the parent's unfitness to adequately parent the child;

12. Who has a parent whose parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse;

13. Who is found under conditions that would support grounds for involuntary termination of parental rights found in Section 5.123 B;

14. Who is a court ward less than twenty years of age, in foster care, and who is a full time high school student or actively pursuing a GED; and

15. Who is exposed to an environment where adults are manufacturing, selling, or using a controlled substance or hazardous materials.

I. "**Child Welfare Commission**" A Commission created by Tribal Statute and appointed by the Tribal Council to protect and promote the welfare of Tribal children, families and the best interest of the Tribe.

J. "**Children's Court**" The Little Traverse Bay Bands of Odawa Indians Tribal Court, when exercising jurisdiction under this Statute, abbreviated in this Statute as "the Court."

K. "**Children's Court Judge**" Any duly appointed judge of the Little Traverse Bay Bands of Odawa Indians Tribal Court when exercising jurisdiction under this Statute.

L. "**Commit**" Means to transfer legal custody.

M. "**Controlled Substance**" Any substance defined or described as such in the Uniform Controlled Substances Act, 21 U.S.C. § 812, as amended.

N. "**Custodian**" A person, other than a parent or guardian, to whom legal custody of a child has been given by a court of competent jurisdiction.

O. "**Domicile**" A person's permanent home, legal home, or main residence. The domicile of a child is generally that of the custodial parent, guardian or custodian. Domicile includes the intent to establish a permanent home or the place where the parent, guardian or custodian considers being his/her permanent home.

P. "**Extended Family**" A person who is the child's grandparent, great aunt or uncle, aunt or uncle, brother or sister, step-brother or step-sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step parent, or other individual considered part of the child's extended family by Tribal tradition and custom.

Q. "**Family Services Coordinating Team**" A case specific team established by Tribal Social Services to involve and coordinate the child protection services of various service providers as set forth in Section IX of this Statute.

R. "**Father**" Means:

1. A man married to the mother at any time from a child's conception to the child's birth unless the child is determined not to be an issue of the marriage;

2. A man who legally adopts the child; or

3. A man whose paternity is established in one of the following ways within time limits when applicable set by the Court pursuant to this Statute:

a. The man and the mother of the child acknowledge that he is the child's father in a writing executed and notarized and filed in the Court.

b. The man and the mother file a joint written request for a correction of the certificate of birth pertaining to the child that results in issuance of a substituted certificate recording the birth;

c. The man acknowledges the child, without the acknowledgment of the mother, with the approval of the Court; or

d. A man who by order of filiations or by judgment of paternity is determined to be the father of the child.

R. "**Guardian**" A person other than a parent assigned by a court of competent jurisdiction to exercise the duty and authority to provide care, and control of a child.

S. "**Hazardous Materials**" are substances, natural or man-made, which are intrinsically dangerous or otherwise pose a safety hazard. Examples are materials which are explosive, poisonous, chemically active (including acids and other corrosives), radioactive, or biologically active (including human blood and other medical waste).

T. "**Indian**" Any enrolled or eligible citizen of a federally recognized Indian Tribe, band or community, or Alaskan Native, and/or any person so defined by Tribal, federal or state law.

U. "**Indian Child**" Any child who is a citizen of a federally recognized tribe, historic tribe or

a child that is considered by the community to be a North American Indian.

V. "**Least Restrictive Alternative**" The placement alternative which is the least restrictive method, in terms of restrictions to be placed upon the child and family, or obtaining the objectives of the Court and this Statute.

W. "**Parent**" A person who is legally responsible for the control and care of the child including a mother, father, guardian or custodian, including a natural or adoptive parent, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

X. "**Parental Rights and Duties**" Legal rights which include rights, responsibilities, duties and obligations between the parent and the child including, but not limited to:

1. Care, custody, maintenance, health and protection. A child has a right to call upon the parent to exercise those duties;

2. Advise the child. Law presumes that advice is given in good faith and in the best interest of the child;

3. Right to discipline. Parents may use discipline that is reasonable;

4. Control of education. Parents may choose where the child attends school;

5. Religious training. The religious training of the child, or lack of it, is a matter solely within the parent's control;

6. The right to a child's services and earnings. Parents have the fiduciary responsibility to act in good faith and in the best interest of the child; and

7. The right to direct the child's activities and make decisions regarding the child's care and control, education, health and religion.

Y. "**Prosecutor**" The person appointed by the Tribal Council who has the constitutionally

derived power and authority to represent the Tribe in any and all child welfare proceedings before all courts, commissions or tribunals within the Tribe's jurisdiction.

Z. "**Protective Services Worker**" The protective service worker, social services worker, law enforcement personnel or any person who performs the duties and responsibilities as set forth in Section VIII of this Statute [WOTC 5.108].

AA. "**Reservation**" All lands within the boundaries of the reservations for Little Traverse as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse reservation by the Department of the Interior.

BB. "**Tribal Child**" a person who is less than eighteen (18) years of age, has not been emancipated by a court of competent jurisdiction, and is either (1) a Tribal citizen or (2) eligible for citizenship in the Tribe.

CC. "**Tribal Council**" The Tribal Council of the Little Traverse Bay Bands of Odawa Indians.

DD. "**Tribal Court**" The Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

EE. "**Tribal Social Services**" The Department of the Tribe which provides social services to the citizenship and residents of the Little Traverse Bay Bands of Odawa Indians' reservation.

FF. "**Tribe**" or "**Tribal**" The Little Traverse Bay Bands of Odawa Indians (LTBB).

(Source: WOS 2006-18, September 18, 2006, Section IV)

5.105 JURISDICTION

A. Jurisdiction of the Children's Court Division except as provided herein, the Children's Court Division of the Tribal Court shall have jurisdiction over the following persons in cases where it is alleged that a child is in need of care:

1. Any Tribal child who is found or resides within the exterior boundaries of the Reservation;

2. Any child transferred to Tribal Court pursuant to the Indian Child Welfare Act, 25 U.S.C. Section 1901-1963;

3. Any child residing within Tribal Trust Lands;

4. Any person residing within Tribal Trust Lands who is pregnant and abusing alcohol or controlled substances;

5. Any Tribal citizen who resides within the exterior boundaries of the Reservation and who is pregnant and abusing alcohol or controlled substances; or

6. Any person who is alleged to have caused any child, subject to this Court's jurisdiction, to become a child-in-need-of-care.

B. Jurisdiction once exercised by the Court is continuing and exclusive unless terminated by the Court.

C. Jurisdictional Procedures.

1. Child found or residing within Trust Lands. When a Tribal child is found or resides within Tribal Trust Lands, Tribal original and exclusive jurisdiction to protect the child and family, and implement proceedings under this Statute if necessary, through its Tribal Social Services Department, Law Enforcement Department and Tribal Court.

2. Child found or residing on the Tribal Reservation outside of Trust Lands. The Tribe shall use its best efforts to develop protocols with appropriate Michigan state and local agencies to involve Tribal Social Services and Law Enforcement in the initial stages of investigation and provision of services when a child is found or resides within the Tribal Reservation outside of Trust Lands. The Tribe shall also use its best efforts to develop protocols with the Michigan courts of all foster care proceedings (as defined in

the Indian Child Welfare Act, 25 USC 1903) involving such children. Since Tribal jurisdiction is exclusive within the exterior boundaries of the Reservation, the Tribal Court must accept transfer of all such cases.

(Source: WOS 2006-18, September 18, 2006, Section V)

5.106 TRANSFER OF JURISDICTION

A. Application of the Indian Child Welfare Act. The Children's Court Division may apply the policies of the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963, where they do not conflict with the provisions of this Statute. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the Children's Court Division except where specifically provided for in this Statute.

B. Transfer to State or Other Indian Court. In any proceeding before the Children's Court, the Court may transfer the proceedings to an appropriate state Court, or another Indian Court where the state or the other Indian Court has a significant interest in the child, and the transfer would be in the best interest of the child.

C. Transfer from Other Courts. The Children's Court may accept or decline, under the procedures set forth in this Statute, transfers of child welfare cases from federal, state or other Indian Courts.

D. Procedures for Intervention and Transfer from State Courts.

1. Receipt of Notice: The Tribal agency for service of notice of state court child custody proceedings, as required by the Indian Child Welfare Act, shall be the Tribal Prosecutor.

2. Intervention: If the notice involves a child who is a Citizen, or eligible for Citizenship in the Tribe, the Tribal Prosecutor shall forthwith file a notice of intervention, or a motion to intervene if necessary, with the state court.

3. Investigation and Pre-Transfer Report: The Tribal Social Services Department

shall conduct an investigation and file a written report with recommendations to the Child Welfare Commission.

4. Decision to Transfer: The Child Welfare Commission may make recommendations to the Tribal Prosecutor on whether the Tribe should petition for a transfer of proceedings from the state Court, or not. The Child Welfare Commission in their recommendation shall consider these factors:

a. The best interest of the child;

b. The best interest of the Tribe;

c. Availability of services for the children and their family; and

d. The prospects for permanent placement for the children.

5. Petition for Transfer: The Tribal Prosecutor shall make a determination as to whether the Tribe shall file a Petition to Transfer in the state court and file a copy of the petition in Tribal Court. the Child Welfare Commission's recommendation shall be considered, but is not binding on the independent decision making process of the Tribal Prosecutor.

6. Acceptance of Transfer: The Children's Court has discretion whether to accept or deny the transfer of cases arising outside of the exterior boundaries of the reservation.

7. Hearing/s: Upon the receipt of the transfer of jurisdiction from state court, the Tribal Court shall hold appropriate hearings in accordance with this Statute.

E. Recognition of Foreign Court Orders.

1. State Court Orders: State child custody orders involving children over whom the Children's Court could take jurisdiction may be recognized by the Children's Court only after a full independent review of the state court proceedings leads to the following findings:

a. The state court had jurisdiction over the child;

b. The provisions of the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963, were properly followed;

c. Due process was provided to all interested persons participating in the state proceeding; and

d. The state court proceeding does not violate the public policies, customs, or common law of the Tribe.

2. Court Orders of other Tribal Courts: Court order of other Tribal courts involving children over whom the Children's Court may take jurisdiction shall be recognized by the Court has determined:

a. That the other Tribal Court exercised proper subject matter jurisdiction over the parties; and

b. Due process was accorded to all interested parties participating in the other Tribal Court proceeding.

(Source: WOS 2006-18, September 18, 2006, Section VI)

5.107 PRODECURES AND AUTHORIZATIONS

A. Rules of Procedure. The procedures in the Children's Court shall be governed by the rules of procedure for the Tribal Court which is not in conflict with this Statute.

B. Cooperation and Grants. The Children's Court is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any foster care, shelter care, treatment or training program/s and to receive grants in aid to carry out the purposes of this Statute. This authority is subject to the approval of the Tribal Council, if it involves the expenditure of Tribal funds.

C. Social Services. The Children's Court shall utilize social services as may be furnished by any tribal, federal, or state agency provided that such services are economically administered without unnecessary duplication and expense.

(Source: WOS 2006-18, September 18, 2006, Section VII)

5.108 CHILDREN'S COURT PERSONNEL

A. Guardian Ad Litem. At any stage of the proceedings conducted under this Statute, the Children's Court may appoint a lawyer or advocate as guardian ad litem, for the child.

1. Role of the Guardian Ad Litem. The duty of the guardian *ad litem* is to represent the interests of the child.

2. Duties of the Guardian Ad Litem. The guardian ad litem shall perform the following duties:

a. Appear at all hearings to competently represent the interests of the child in proceedings before the Court;

b. Conduct an independent investigation, including interviewing the child, parents, social workers, school personnel, care providers, and other persons to properly ascertain the facts and circumstances underlying the allegation that the child is in-need-of-care within the jurisdiction of the Court;

c. Ascertain the interests of the child, taking into consideration the child's wishes according to the competence and maturity of the child;

d. Provide a written report of findings and recommendations to the Court at each hearing held before the Court;

e. Urge that specific and clear orders are entered for evaluation, assessment, services and treatment for the child and his or her family;

f. Monitor implementation of case plans and disposition orders to determine whether services ordered by the Court are actually provided, are provided in a timely manner, and are accomplishing their desired goal;

g. Inform the Court if the services are not being made available to the child and/or family, if the family fails to take advantage of such services, or if such services are not achieving their purposes,

h. Identify the common interests among the parties and, to the extent possible, act as mediator to promote a cooperative resolution of the matter;

i. Consult with other professionals liberally in identifying the child's interests, current and future placements, and necessary services;

j. Advocate for the interests of the child in mental health, educational, juvenile justice, and other community systems when related to the circumstances causing the child to come within the jurisdiction of the Children's Court; and

k. Attend training programs as recommended and provided by the Court or the Indian Child Welfare Committee.

3. Confidentiality. All records, information, and reports prepared, acquired or received or reviewed by Guardians ad litem are confidential and shall only be disclosed or dispersed pursuant to this Statute or the Tribal law.

B. Court Appointed Attorney for a Parent. At any stage of the proceedings conducted under this Statute, the Children's Court may appoint a lawyer or advocate for a parent if the interests of justice require.

(Source: WOS 2006-18, September 18, 2006, Section VIII)

5.109 PROTECTIVE SERVICE WORKERS

A. **Powers and duties of protective service workers**. A protective service worker shall:

1. Receive from any source, oral or written, information regarding a child who may be a child in need of care.

2. Upon receipt of any report information under subsection (1), within twenty four (24) hours initiate a prompt and thorough investigation which shall include a determination of the nature, extent, and course of any condition which is contrary to the child's best interest and the name, age, and condition of other children in the home.

3. In conducting the investigation, the protective service worker shall seek the assistance of and cooperate with law enforcement officials within twenty four (24) hours after becoming aware that one or more of the following conditions exist:

a. Abuse or neglect is the suspected cause of a child's death;

b. The child is the victim of suspected sexual abuse or sexual exploitation;

c. Abuse or neglect resulting in severe physical injury to the child that requires medical treatment or hospitalization. For purposes of this subsection, “severe physical injury” means brain damage, skull or bone fracture, subdural hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well being of a child;

d. Law enforcement intervention is necessary for the protection of the child, the protective service worker, or another person involved in the investigation; or

e. The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

4. Schools and other institutions shall cooperate with social services department during an investigation of a report of child abuse or neglect. Pursuant to Section 552a of title 5, the Family Educational Rights and Privacy Act of 1974 (20 U.S. C. 1232g):

a. Examinations and Interviews. Photographs, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse or neglect in Indian country shall be allowed without parental consent if Tribal child protective services or Tribal law enforcement officials have reason to believe the child has been subject to abuse.

b. Interviews by Law Enforcement and Child Protective Officials. In any case in which officials of the Tribal law enforcement agency or Tribal child protective services agency have reason to believe that an Indian child has been subject to abuse or neglect in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian. The parent, guardian, or legal custodian shall be provided notice of the contact with the child as soon as reasonably possible.

c. Protection of Child. Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advice, or under the guidance, of a Tribal or inter-agency multidisplinary team.

d. Cooperation; Information Sharing. All tribal departments, agencies and programs shall cooperate with Tribal social services in investigations of a report of child abuse or neglect. This includes the sharing of information without the need of signed releases for the development of case service plans and monitoring compliance with such plans.

5. Take a child into temporary custody if necessary pursuant to Section XI [WOTC 5.111]. Law enforcement officials shall cooperate with protective services personnel to remove a child from the custody of his parents, guardian or custodian when necessary.

6. After investigation, evaluate and assess the home environment of the children in the home and the risk to such children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent.

7. Substantiate whether there is probable cause to believe that the child is a child in need of care.

8. Offer to the family of any child found to be a child in need of care, appropriate services which may include, but shall not be restricted to, prevention services, and document such offer/s.

9. Within thirty (30) days after a referral of a potential child in need of care, submit a written report of his/her investigation and evaluation which shall be included in the records maintained by the protective services division of the Tribal Social Services Department and shall include a determination as to whether the report is substantiated or unsubstantiated. Upon completion of the investigation by the local law enforcement agency or the protective services worker, the law enforcement agency or protective services worker may inform the person who made the report as to the disposition of the report.

B. Cooperation from Law Enforcement. Law enforcement officials shall cooperate with the
protective services worker and the Tribal Social Services Department in conducting investigations pursuant to this Section.

C. Limitations of Authority; Duty to Inform. Before offering protective services to a family, a worker shall inform the family that he/she has no legal authority to compel the family to receive such services. If the family declines the offered services, the worker may request authorization to initiate a child protection petition in the Children's Court. Nothing in this Section limits the authority of the protective services worker to act in emergency situations pursuant to Section XI [WOTC 5.111] or to obtain a medical evaluation of the child pursuant to Section XXIV [WOTC 5.124].

(Source: WOS 2006-18, September 18, 2006, Section IX)

5.110 FAMILY SERVICES COORDINATING TEAM

The Family Services Coordinating Team is designed to promote cooperation, communication and consistency among service providers and monitor progress with the case service plan. The Family Services Coordinating Team shall assist the family to comply with the requirements of the case service plan. All team shall maintain confidentiality.

The Tribal Social Services Director shall be responsible for convening a family services coordinating team. The Family Services Coordinating Team shall consist of all involved services providers. The team shall share case service information and collaborate on ensuring active efforts are undertaken to assist the family in complying with the case service plan. All team citizens shall maintain confidentiality.

A. Team Citizenship. The Family Services Coordinating Team shall consist of the Tribal Protective Services Worker, and a representative from the Tribal Law Enforcement Department. The Team may request the assistance of any other person in carrying out its responsibilities, such as persons with knowledge and experience in the following matters: medical/health, mental health, substance abuse, social services, law enforcement, and protective services. The Team may request the assistance of any person in carrying out its responsibilities.

(Source: WOS 2006-18, September 18, 2006, Section X)

5.111 DUTY TO REPORT CHILD ABUSE AND NEGLECT

A. General Duty to Report. Any person who has a reasonable cause to suspect that a child is being abused or neglected shall immediately make a report to the Protective Services Division of Tribal Social Services or to the Tribal Law Enforcement Department. Any person so reporting may remain anonymous, unless such person is in a category listed in subsection (B) below.

B. Specific Duty to Report.

1. A physician, coroner, dentist, medical examiner, nurse, a person licensed to provide emergency medical care, community health representative, audiologist, psychologist, family therapist, certified social worker, social worker, social work technician, substance abuse counselor, school administrator, school counselor or teacher, law enforcement officer, or duly regulated child care provider who has reasonable cause

to suspect that a child may be a child in need of care shall immediately make by phone or otherwise an oral report, or cause an oral report to be made, of the suspected condition to the Tribal Protective Services Division, or Law Enforcement Department.

2. Within seventy two (72) hours after making an oral report the reporting person shall file a written report. If the reporting person is a citizen of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of said entity of his finding and that the report has been made and shall make a copy of the written report available to the person in charge. One report from a hospital, agency or school shall be considered adequate to meet the reporting requirement. A citizen of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this Section or for cooperating in an investigation.

3. The Protective Services Division shall provide to any person making a report pursuant to subsection "B" above within sixty (60) days of its receipt the Division's determination of the report as founded or unfounded.

C. Immunity from Liability. All persons or agencies complying in good faith with the provisions of this Section shall be immune from civil liability and criminal prosecution.

D. Abrogation of Privilege. Any legally recognized privileged communication, except that between attorney and client, is abrogated and shall neither constitute grounds for excusing a report otherwise required to be made nor for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this Section.

E. Penalty for not Reporting. Any person mandated to report under subsection "b" above who knowingly fails to do so or willingly prevent someone else from doing so shall be subject to a charge of civil contempt with a civil forfeiture of up to $5,000.00.

F. Abuse and Neglect Reports. Persons mandated to report under this Section shall include the following information in their written report:

1. Names, addresses, and tribal affiliation of the child and his/ her parents, guardian or custodian;

2. The children's age;

3. The nature and content of the child's abuse or neglect;

4. Previous abuse or neglect of the child and/or siblings;

5. Name and address of the person alleged to be responsible for the child's abuse or neglect; and

6. Name and address of the person or agency making the report.

G. Medical Examinations. The Protective Services Division may request a Court order for a medical evaluation of a child pursuant to Section XXIV [WOTC 5.124] of this Statute. The Division shall have a medical evaluation done without a Court order if the child's health is seriously endangered and a Court order cannot be obtained.

1. When a child suspected of being a child in need of care is seen by a physician, the physician shall make the necessary examinations which may include physical examinations, X-rays, photographs, laboratory studies, and other pertinent studies.

2. The physician shall immediately report the results of the evaluation to the Protective Services Division, Law Enforcement and the Court, if requested to do so. The physician's written report to the Division shall contain a summary of the evaluation.

(Source: WOS 2006-18, September 18, 2006, Section XI)

5.112 INVESTIGATION AND EMERGENCY REMOVAL

A. Investigative Orders; Orders for examination. Upon a showing of probable cause to believe that a child is a child in need of care, which may be done *ex parte*, the Court may order further investigation and discovery, including but not limited to taking of photographs, gathering physical evidence, and examinations or evaluations of a child, parent, guardian or custodian, by a physician, dentist, psychologist, or psychiatrist.

B. Authority to Remove. Upon application by any person which may be *ex parte*, if the Court finds probable cause to believe the child is a child in need of care and that the conditions in which the child is found present a substantial risk of harm to the child's life, physical health or mental well being the Court may order the child be taken into custody. The Court may include in such an order:

1. An authorization to enter specified premises to remove the child; and

2. A directive to place the child in protective custody pending a preliminary hearing.

C. Emergency Removal without a Court Order. A child may be taken into protective custody without a Court order by a law enforcement officer or the Tribe's protective services worker if such person has probable cause to believe the child is a child in need of care, and

1. Failure to remove the child may result in a substantial risk of death, serious injury, or serious emotional harm; or

2. The parent, guardian or custodian is absent and it appears, from the circumstances, that the child is unable to provide for his/her own basic necessities of life, and no satisfactory arrangements have been made by the parents, guardian or custodian to provide for such necessities and no alternative arrangements except removal are available to protect the child.

(Source: WOS 2006-18, September 18, 2006, Section XII)

5.113 NOTICE OF REMOVAL

A. Notice to the Children's Court. After a child is removed from his/her home the person who removed the child shall attempt to contact the Children's Court within six (6) hours. The attempt to contact the Court shall be documented. Actual notice to the Court shall be made by the removing person, no later then 12:00 PM of the next working day.

B. Notice to the Parent, Guardian or Custodian. The person removing the child shall

make reasonable efforts to notify the parents, guardian or custodian, within 12 hours of the child's removal. Reasonable efforts shall include personal, telephone and written contacts at their residence, place of employment, or other location where the parent, guardian or custodian is known to frequent with regularity. If the parent, guardian or custodian cannot be found, notice shall be given to citizens of the extended family of the parent, guardian or custodian and/or the extended family of the child. Said notice shall advise the parent, guardian or custodian of their rights under this Statute.

C. Notice to Indian child's tribe if different from LTBB jurisdiction. If the Children's Court asserts jurisdiction over a person who is a citizen of an Indian tribe other than the Little Traverse Bay Bands of Odawa Indians, the Tribal Court shall notify the Indian court of its child that jurisdiction has been asserted.

(Source: WOS 2006-18, September 18, 2006, Section XIII)

5.114 PLACEMENT OF CHILDREN

A. Placement Priorities. A child may be placed in the following community based shelter facilities listed in order of preference:

1. Citizens of the child's Tribal extended family;

2. Citizens of the child's non-Tribal extended family;

3. An Indian family of the same tribe as the child, which is approved by the Commission or an Indian family otherwise authorized by law to provide care for the child;

4. A facility operated by a licensed child welfare services agency or an Indian tribal facility; or

5. Any other suitable placement which meets the standards for shelter care facilities established by the Tribe.

(Source: WOS 2006-18, September 18, 2006, Section XIV)

5.115 DELEGATIONS AND PARENTAL AUTHORITY

A. Power of Attorney. A parent, legal custodian, or by a properly executed power of attorney, may delegate any powers of a parent regarding the care, custody and property of a minor child to another person. Said powers include but are not limited to the following: the consent to admission to a hospital or school, consent to secure routine dental care, non-surgical medical care and emergency dental, medical or surgical treatment. The delegation does not include power to consent to marriage, non-emergency elective surgery or adoption. The delegation shall be valid for six (6) months from the date of execution and may be revoked in writing, at anytime by the person or agency delegating the power. A person acting under a power of attorney may be referred to as an "attorney in fact", "agent" or "power of attorney." The delegation is renewable upon the re-execution of the document.

B. Limited Guardianship.

1. Establishment. The Court may establish a limited guardianship for good cause shown, upon petition of the custodial parent(s) only, under such terms and conditions as the Court sets forth in the written order. A limited guardianship may be terminated if the Court determines that it is in the best interest of the child to change custody from the limited guardian to a new guardian or to return the child to the parent, guardian or custodian. The parent and the child's extended family shall be granted visitation rights unless deemed inappropriate by the Court. A limited guardianship shall be established by parental consent only, and may be revoked by the Court upon parental request.

2. Visitation. The parent and the child's extended family shall be granted visitation rights unless deemed inappropriate by the Court.

3. Termination. Only the custodial parent(s) may file a petition for termination of a limited guardianship, which shall be granted within one year. However, the Court must make an inquiry into whether the cause(s) for establishing the limited guardianship have been mitigated and the child returned to the custodial parent(s) or alternative placement.

C. Full Guardianship.

1. Purpose. The Children's Court, when it appears necessary or convenient, may appoint guardians for the persons under the Court's jurisdiction. Unless otherwise specified by the Court, a guardian appointed shall be responsible for the care, custody and education of the child until such child arrives at the age of eighteen (18) years, dies, is emancipated by the Court, or until the guardian is legally discharged.

2. Grounds. The Court may appoint a guardian for a child is either of the following circumstances exists:

a. Parental rights of both parents or of the surviving parent, have been terminated or suspended by prior Court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetence, by disappearance, abandonment, or by confinement in a place of detention; or

b. The appointment is necessary for the immediate physical well being of the child.

3. Who may file. Any person, including Tribal Social Services and mental health services may file a petition for guardianship. The petition shall be initiated either by the proposed guardian or by the child if ay least fourteen (14) years of age.

4. Notice. Before appointing a guardian, the Court must give reasonable notice to all interested parties.

5. Contents of Petition. The petition for guardianship shall include the following to the best of the petitioner's knowledge, information and belief:

a. The full name, sex, date and place of birth, residence and tribal affiliation of the proposed ward;

b. The full name, address, tribal affiliation, relationship, if any, to the minor, and interest in the proceeding of the petitioner;

c. The names and addresses of the minor's parents, if living, and other persons known to have an interest in the petition for the appointment of guardian; the name and date of death of the minor's deceased parent or parents, if appropriate;

d. The basis for the Court's jurisdiction;

e. The name and address of the person or agency having legal or temporary custody of the proposed ward;

f. A statement of the reason that the appointment of a guardian is sought and whom the petitioner recommends to have appointed a guardian; and

g. A full description and statement of value of the minor's assets and liabilities with an estimate of the value of any property owned, possessed, or in which the proposed ward has an interest, including any income and accounts receivable to which the proposed ward is entitled.

6. Certified Petition. All petitions must be dated, signed, and certified by the petitioner and notarized or witnessed by a clerk of the Court.

7. Guardianship Report. Upon the filing of a guardianship petition, the Court shall immediately request that the Social Services Department, Guardian Ad Litem or other qualified agency conduct a guardianship report on the proposed guardian and the proposed ward.

a. Contents of Report. The guardianship report shall contain all pertinent information necessary to assist the Court in determining the best interests of the proposed ward.

b. When Report Due. No determination can be made on a petition for guardianship until the report has been completed and submitted to and considered by the Court. The guardianship report shall be submitted to the Court no later

than ten (10) days before the hearing. The Court may order additional reports, as it deems necessary.

8. Powers and Duties of Guardian. To the extent that it is not inconsistent with the terms of any order of the Court, a guardian has the following powers and duties:

a. The guardian is entitled to custody of the ward and shall make provisions for the ward's care, comfort, and maintenance, and shall, as appropriate to the ward's needs, arrange for the ward's training, education, employment, and rehabilitation. The guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects that are with the ward;

b. In arranging for a place of abode, the guardian shall give preference to places on reservation over places off reservation, if both on reservation and off reservation places are substantially equivalent. The guardian also shall give preference to places that are not treatment facilities. If the only available and appropriate places of domicile are treatment facilities, such as group homes, over treatment facilities that are not tribal based; and

c. The guardian shall have authority to consent to any medical, legal, psychological, or other professional care, counsel, treatment, or service for the ward. The guardian may give any other consent or approval on the ward's behalf that may be required or in the ward's best interest. The guardian may petition the Court for approval of the consent or approval.

9. Reimbursement. The guardian is entitled to be reimbursed out of the ward's estate for reasonable and proper expenditures incurred in the performance of his/her duties. The Court may order monthly reimbursement payments to the guardian upon request, subject to the availability of funds.

D. Conservatorship. The Court may upon the filing of a petition similar to a petition for guardianship, appoint a conservator for a minor, if in the Court's opinion, a guardianship is not necessary. A conservator shall not have authority over the person but shall be responsible for marshaling and preserving the assets of the minor and paying for the legitimate expenses

incurred in the care and maintenance of the minor, subject to the availability of funds.

E. Annual Reports. All limited guardians, guardians and conservators, shall file annual reports with the Tribal Court providing an update on the condition of the ward and an accounting of funds collected and funds expended on behalf of the ward. The reports shall be available for review by interested parties.

F. Annual Review Hearings. Limited guardians, guardians and conservators, shall schedule annual review hearings in conjunction with the filing of annual reports. Any interested party may request additional hearings.

G. Resignation. Any limited guardians, guardians, or conservators who wishes to resign, may petition the Court setting forth the reasons for the request. The Court shall review a final accounting prepared by the limited guardian, guardian, or conservator. If the Court is satisfied, it may accept the resignation, discharge the limited guardian, guardian, or conservator and appoint a successor. The limited guardian, guardian, or conservator remains liable for all matters occurring from the time of appointment to the time of discharge.

H. Appointment of Successors. Upon the removal, death, or resignation of a limited guardian, guardian, or conservator, the Court shall appoint a successor following the same criteria provided for in the original appointment.

I. Fiduciary Duty. All persons acting under a power of attorney, limited guardians, guardians, conservators and any person or agency appointed to act on behalf of a minor under this Statute acts in a fiduciary capacity. As a fiduciary, one owes a duty to act in the best interest of the minor, exercising sound judgment and avoiding conflicts of interest. Any person acting under power of attorney, limited guardian, guardian, or conservator, breaching his/her fiduciary duty will be liable for any damages resulting from such breach.

(Source: WOS 2006-18, September 18, 2006, Section XV)

5.116 FILING CHILD PROTECTION PETITION

A. Authorization to File Petition. Upon authorization by the Tribal Presenting Officer, the

child protective service worker shall initiate formal child protection proceedings by filing a child protection petition on behalf of the Tribe and in the best interest of the child. Nothing in this Section shall preclude law enforcement or protective services personnel from taking emergency action under Section XI of this Statute [WOTC 5.111].

B. Time Limitations. If a child has been removed from the home, then a child protection petition shall be filed with the Children's Court no later than noon of the second working day following the removal.

C. Contents of Petition. The child protection petition shall set forth the following with specificity:

1. The name, birth date, sex, residence and tribal affiliation of the child;

2. The basis for the Court's jurisdiction;

3. The specific allegation which cause the child to be a child in need of care;

4. A plain and concise statement of the facts upon which the allegations of a child in need of care are based, including the date, time and location at which the alleged facts occurred;

5. The names, residence and tribal affiliation of the child's parents, guardians or custodians, if known; and

6. If the child is placed outside of the home, where the child is placed, the facts necessitating the placement and the date and time of the placement.

(Source: WOS 2006-18, September 18, 2006, Section XVI)

5.117 NOTICE AND SERVICE OF SUMMONS

A. General. Unless a party must be summoned as provided in subsection (B) below, a party shall be given notice of a proceeding in the Children's Court in any manner authorized by this

Statute or the Tribal Court Statute.

B. **Summons**. In a Children's Court proceeding, the summons shall be issued and served on the parent and the person with whom the child resides, if other than a parent or a Court ordered custodian, directing such person to appear with the child for trial. The summons shall include a notification of the parties' rights under this Statute. The Court may direct that the Child's appearance in Court is unnecessary.

1. In a proceeding for termination of parental rights, the summons for a hearing on the Petition must be issued and served on the parent and the person with whom the child resides, if other than the parent or a guardian. The Court may direct that the child's appearance in Court is unnecessary.

2. Contents. The summons shall direct the person to whom it is addressed to appear with the child (unless the child's appearance has been excused) at a time and place specified by the Court and must:

a. Identify the nature of the hearing;

b. Include a prominent notice that the hearing could result in termination of parental rights; and

c. Have a copy of the petition attached to the summons.

3. Manner of Serving Summons.

a. Except as provided in subsections (b) and (c) below, a summons required under Section XVII [WOTC 5.117] must be served delivering the summons to the party personally.

b. If personal service of the summons is impracticable or cannot be achieved, the Court may direct that it be served by registered or certified mail addressed to the last known address of the party, return receipt requested, and restricted to the addressee.

c. If the Court finds service cannot be made because the whereabouts of the person/s to be summoned has not been determined after reasonable effort, the Court may direct any manner of substituted service reasonably calculated to provide notice, including publication.

4. Time of Service.

a. A summons shall be served at least:

i. Seven (7) days prior to adjudication; and

ii. Fourteen (14) days prior to a hearing on a petition to terminate parental rights.

b. If the summons is served by registered mail, it must be sent at least seven (7) days earlier than subsection (a) requires for personal service of a summons.

c. If service is by publication, the published notice, which does not require publication of the petition itself, shall appear in a newspaper in the county where the party resides, if known, and, if not, in the county where the action is pending. The published notice must appear one or more times, fourteen (14) days prior to the hearing.

C. **Notice of Hearing**. Notice of hearing must be given in writing which may be on the record or mailed to the last known address at least seven (7) days prior to the hearing, unless provided for otherwise in this Statute.

1. Persons Entitled to Notice. The Court shall ensure - that the following persons are notified of each hearing.

a. The parent or parents;

b. The attorney for the parent;

c. The child or the advocate for the child;

d. The legal guardian or custodian other than the parent, if any;

e. The Tribal Presenting Officer;

f. The responsible child placement agency;

g. The CASA of a party appointed pursuant to this Statute; and

h. Any other person the Court may direct to be notified.

2. Preliminary Hearing. When a child is placed, reasonable efforts shall be made to notify the parents of the child or extended family pursuant to Section XI [WOTC 5.111] (emergency removal) as soon as the hearing is scheduled, the notice may be in person, in writing, on the record, or by telephone.

3. Termination Proceedings. Notice of a hearing on a petition to terminate parental rights must be given in writing or on the record at least 14 days prior to the hearing.

4. When a party fails to appear in response to a notice of hearing, the Court may order the party's appearance by summons or subpoena.

D. **Subpoenas**. The attorney for a party or the Court on its own motion may cause a subpoena to be served on a person whose testimony or appearance is desired. It is not necessary to tender advance fees to the person served a subpoena in order to compel attendance.

E. **Waiver of Service**. A person may waive notice of hearing or service of process. The Waiver shall be in writing. When a party waives service of a summons required by Section XVII(B) [WOTC 5.117(B)], the party must be advised as set forth in Section XVII(B)(3) [WOTC 5.117(B)(3)].

F. **Subsequent Notices**. After a party's first appearance before the Court, subsequent notice

of proceedings and pleadings shall be served on that party or, if the party has an attorney, on the attorney for the party, either personally or by ordinary mail, except that a summons must be served before a trial or termination hearing as provided in subsection (B) unless a prior Court appearance of the party in the case, was in response to service by summons.

G. Putative Fathers. If the Court determines that the child has no father as defined in Section III (P) [WOTC 5.103(P)], the Court shall take appropriate action as described in this Section.

1. The Court shall take initial testimony on the tentative identity and address of the natural father. If the Court finds probable cause to believe that an identifiable person is the natural father of the child, the Court shall direct that notice be served on that person in the manner as provided in this Section. The notice shall include the following information.

a. That a petition has been filed with the Court;

b. The time and place of hearing at which the natural father is to appear to express his interest, if any, in the child; and

c. A statement that failure to attend the hearing will constitute a denial of interest in the child, a waiver of notice for all subsequent hearings, and could result in termination of any parental rights.

2. After notice to the putative father the Court may conduct a hearing and determine that:

a. The putative father has been personally served or served in some other manner which the Court finds to be reasonably calculated to provide notice to the putative father. If so, the Court may proceed in the absence of the putative father;

b. A preponderance of the evidence establishes that the putative father is the natural father of the child and justice requires that he be allowed fourteen (14) days to establish his relationship according to Section III (P) [WOTC 5.103(P)],

provided the Court may extend the time for good cause shown if the best interests of the child so require;

c. There is probable cause to believe that another identifiable person is the natural father of the child. If so, the Court shall proceed with respect to the other person in accord with this subsection (G); and

d. If after diligent inquiry, the identity of the natural father cannot be determined. The Court shall publish a notice at least once, in a manner calculated to alert a person who may be the father of the child. If no person comes forward the Court shall terminate the parental rights of the unknown father and proceed without further notice.

3. The Court may find that the natural father waives all rights to further notice, including the right to notice of termination of parental rights if;

a. He fails to appear after proper notice; and

b. He appears, but fails to establish paternity within the time set by the Court.

(Source: WOS 2006-18, September 18, 2006, Section XVII)

5.118 PRELIMINARY HEARING

A. Time for Hearing. If a child:

1. Has been released to his/her parents, guardian or custodian, the Court shall conduct a preliminary hearing within seven (7) days after filing of the petition.

2. Has been placed out of home, the Court shall conduct a preliminary hearing by 12:00 PM on the second work day following the placement for the purpose of determining:

a. Whether probable cause exists to believe the child is subject to the

jurisdiction as a child in need of care; and

b. Whether the home conditions continue to be such as there is no alternative to removal to adequately safeguard the child.

B. Absence of Parent at Preliminary Hearing. If the child's parent, guardian or custodian is not present at the preliminary hearing, the Court shall make an inquiry into what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the child's parent, guardian or custodian, the Court shall recess for not more than twenty four (24) hours and direct the petitioner to make continued efforts to obtain the presence of the child's parent's, guardian or custodian. The preliminary hearing may be conducted in the parent's absence.

C. Conduct of Preliminary Hearing. The Court shall read the allegations in the petition in open Court, unless waived and shall advise the parent of the right to have counsel represent them, at their own expense, and their right to a trial on the allegations in the petition. After advising the parent of the right to remain silent, the Court shall allow the parent an opportunity to deny or admit the allegations and make a statement of explanation.

D. Testimony at Preliminary Hearing. The Court shall hear testimony concerning:

1. The circumstances that gave rise to the petition; and

2. The need for continued placement.

E. Finding of No Probable Cause. If probable cause to believe the child is a child in need of care is not found, the petition shall be dismissed and the child shall be released.

F. Finding of Probable Cause. If the Court finds that probable cause exists to believe the child is a child in need of care, the Court:

1. Shall order the parent, guardian or custodian to appear at an adjudicatory hearing on a date and time set by the Court; and

2. May release the child in the custody of either of the child's parents, guardian or custodian under such reasonable terms and conditions as are necessary for either the physical or mental well being of the child; or

3. May order placement of the child with someone other than a parent, guardian or custodian if the Court, after hearing, determines that both of the following conditions exist:

a. Custody of the child with a parent, guardian or the custodian presents a substantial risk of harm to the child's life, physical health or mental well being and no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from such risk; and

b. Conditions of custody of the child away from the parent, guardian or custodian are adequate to safeguard the child's health and welfare.

G. Court Ordered Examinations. The Court may at any time after conducting a preliminary hearing at which probable cause to proceed upon a petition is found, order any involved child, parent, guardian or custodian to undergo a physical, mental or psychological examination by a qualified professional.

(Source: WOS 2006-18, September 18, 2006, Section XVIII)

5.119 ADJUDICATORY HEARING

A. Purpose. The Court shall conduct an adjudicatory hearing for the purpose of determining whether the facts support a finding that the child is a child in need of care.

B. Commencement. The adjudicatory hearing shall commence as soon as possible but not later than forty five (45) days after the petition is filed with the Court.

C. Continuances. Continuances of an adjudicatory hearing may be granted by the Court but only for any of the following purposes:

1. Upon stipulation of the parties;

2. Where service of process cannot be completed;

3. The Court finds that the testimony of a presently unavailable witness is needed;

4. One time only for up to fourteen (14) days at a parent's request for the parent to obtain counsel, or

5. For good cause shown.

D. Evidence and Conduct of Hearing.

1. The formal rules of evidence shall not apply at these proceedings. All relevant and material evidence which is reliable and trustworthy may be admitted at the trial and may be relied upon by the Court to the extent of its probative value.

2. The parties shall be afforded an opportunity to examine and controvert written reports received by the Court and shall be allowed to cross examine individuals who made the reports.

E. Findings and Judgment. If the allegations of the petition are sustained by a preponderance of the evidence, the Court shall find the child to be a child in need of care, as the facts indicate, and schedule a dispositional hearing. The Court may also enter orders of further discovery, evaluation and assessment and other orders to protect the child. If the allegations of the petition are not sustained, the Court shall dismiss the matter and release the child.

(Source: WOS 2006-18, September 18, 2006, Section XIX

5.120 DISPOSITIONAL HEARING

A. A dispositional hearing is conducted to determine measures to be taken by the Court with respect to the child properly within its jurisdiction and, when applicable, against any adult, once the Court has determined following trial, plea of admission or no contest that the child comes

within its jurisdiction.

B. Time for Hearing. The dispositional hearing may be held immediately after the adjudicatory hearing. The interval if any, between the adjudicatory hearing and the dispositional hearing is within the discretion of the Court. When the child is in placement, the interval may not be more than 60 days except for good cause. If the dispositional hearing is not held immediately after the adjudication, notice of hearing may be given by scheduling it on the record in the presence of the parties or in accordance with Section XVII [WOTC 5.117] (Notice and Service of Summons).

C. Proposed Disposition (Case Service Plan). Active efforts to provide remedial services and rehabilitative programs, designed to prevent the breakup of the family, must be made available to the parent, custodian or guardian.

1. The Tribal Social Services Department, and/or other agency designated by the Court shall prepare and submit a proposed disposition/case service plan in writing to the counsel of record, and the Tribal Presenting Officer at least three (3) days prior to the dispositional hearing.

2. The Tribal Social Service Department shall prepare a written report describing all reasonable and appropriate alternative dispositions, including reports of the involved child placement agency, if any, and the protective service worker. The report shall contain a specific plan for the care of and assistance to, the child and/or the child's parent, guardian or custodian designed to resolve the problems presented in the petition.

3. The report shall contain a detailed explanation of the necessity for the proposed disposition plan and its benefits to the child. The report shall include the effort to prevent removal, and to rectify conditions that caused removal, of the child from the home.

4. If the report recommends placement of the child some where other than with the child's parent, guardian or custodian, it shall state the specific reasons underlying its placement recommendations.

5. Each case service plan shall be reviewed by the Child Welfare Commission; the

Commission shall advise the Court in writing of the disposition which is recommended by vote of the citizens.

D. **Evidence**. All relevant and material evidence, including sworn oral testimony and written reports shall be received and included into the record as evidence, subject to the following:

1. The parties shall be given an opportunity to examine and controvert written reports so received and may cross examine individuals making reports.

2. No assertion of an evidentiary privilege, other than the privilege between attorney and client, shall prevent the receipt and use, at the disposition phase, or material prepared pursuant to a Court ordered examination, interview, or course of treatment.

E. **Disposition Order**. The Court shall enter an order of disposition after considering the case service plan and other evidence offered bearing on the disposition, the Court shall approve a case service plan and may order compliance with all or part of the case service plan and may enter such orders as it considers necessary in the interest of the child. The order of disposition shall state whether reasonable efforts have been made to prevent the child's removal from his/her home or to rectify the conditions that caused the child's removal from his/her home.

F. **Dispositional Alternatives**. If a child has been found to a child in need of care, the Court may make the following dispositions which are listed by priority:

1. Permit the child to remain with his/her parent, guardian or custodian, subject to such conditions as the Court may prescribe;

2. Place the child with a relative within the primary service area of the Tribe, subject to such conditions as the Court may prescribe;

3. Place the child in a licensed foster home within the Tribe’s primary service area, subject to such conditions as the Court may prescribe;

4. Place the child with a relative, outside of the primary service area of the Tribe, subject to such conditions as the Court may prescribe;

5. Place the child in a licensed foster home, outside of the primary service area of the Tribe, subject to such conditions as the Court may prescribe; and

6. Direct the Tribal Presenting Officer to file a petition to terminate parental rights under this Statute.

G. Reimbursement for Care. Parents, custodians or guardians may be ordered by the Court to reimburse the Tribe for the cost of care and placement.

H. Child Support. Parents, custodians or guardians may be ordered by the Court to make child support payments for children placed with relatives or friends who are not eligible for foster care payments or payments not sufficient to cover the cost of caring for the children.

I. Amended Orders. If a child remains under the jurisdiction of the Court, an order may be amended or supplemented within the authority granted to the Children's Court in this Statute at any time as the Court considers it necessary and proper and in the best interest of the child.

(Source: WOS 2006-18, September 18, 2006, Section XX)

5.121 DISPOSITIONAL REVIEW HEARING

A. Frequency. The dispositional order is to be reviewed at the discretion of the Court but at least once every six (6) months.

B. Notice of Review. Notice of the review hearing shall be provided on the record or by ordinary mail as provided in Section XVII(C) [WOTC 5.117(C)].

C. Purpose and Content of Review.

1. At a review hearing the Court shall review on the record the compliance with the case service plan prepared pursuant to Section XX [WOTC 5.120] and the previous orders of the Court including:

a. Services provided or offered to the child and his/her parent, guardian or custodian; - whether the parent, guardian or custodian has complied with and benefited from those services~~.~~, active efforts to provide services; and

b. If visitation did not occur or was infrequent, the Court shall determine why visitation did not occur or was infrequent.

2. After review of the case service plan, the Court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to become and to remain a child in need of care. The Tribal Social Services Department or other Court designated agency may submit a modified case service plan, taking into account circumstances which arose or became known since the time of the original case plan development. The Court may modify any part of the case service plan including, but not limited to, the following:

a. Prescribing additional services that are necessary to rectify the conditions that caused the child to become a child in need of care.

b. Prescribing additional actions to be taken by the parent, guardian or custodian to rectify the conditions that caused the child to become or remain a child offender, or a child in need of care.

3. At a review hearing the Court shall determine the continuing necessity and appropriateness of the child's placement and review the recommendations on such placement of the Child Welfare Commission, the Family Services Coordinating Team and the child placement agency, and shall order the return of the child to the custody of the parent, continue the dispositional order, modify the dispositional order, or enter a new dispositional order.

4. If the child remains in placement, the Court shall determine at the dispositional hearing and at each review hearing whether the case should be reviewed before the next review hearing required under this Section. In making this determination, the Court shall consider, but not be limited to, both of the following:

a. The parent ability and motivation to make necessary changes to provide a suitable environment for the child.

b. Whether there is a reasonable likelihood that the child may be returned to his/her home prior to the next review hearing required by this Section.

D. Return of Child Without Hearing. In the event that the agency charged with the supervision of the child determines that the child should be returned to his home, the agency shall request a hearing on the determination, subject to the notice provisions of Section XVII [WOTC 5.117]. If no party files an objection to the return within the time period prior to the hearing, the Court may issue an order permitting return of the child without a hearing.

E. Reports. An agency report filed with the Court shall be accessible to all parties to the action and shall be offered into evidence.

(Source: WOS 2006-18, September 18, 2006, Section XXI)

5.122 PERMANENCY PLANNING HEARINGS

A. Purpose. A permanency planning hearing shall be conducted to review the status of the child adjudicated as in need of care and the progress being made toward the child's return to his/her natural parent or to some other permanent home.

B. Frequency of Hearings. The Court shall conduct a permanency planning hearing one year after entry of the order of disposition and every twelve (12) months thereafter, so long as the child remains a child in need of care. A permanency planning hearing may be combined with a disposition review hearing under Section XXI [WOTC 5.121] of this Code.

C. Determination.

1. Child Returned. If parental rights to the child have not been terminated and the Court determines at a permanency planning hearing that the return of the child would not cause a substantial risk of harm to the child's life, physical health, or mental well being, the Court shall order the child returned to his/her parent. In determining whether the

return of the child would cause a substantial risk of harm to the child, the Court shall view the failure of the parent to substantially comply with the terms and conditions of the case service plan and dispositional orders of the Court as evidence that return of the child to his/her parent would cause a substantial risk of harm to the child's life, physical health, or mental well being.

2. Child Not Returned. If the Court determines at a permanency planning hearing that the child should not be returned to his/her parent, the Tribal Social Services Department shall file a petition to;

a. Terminate parental rights;

b. Place child permanently with a relative; or

c. Place child in long term foster care.

(Source: WOS 2006-18, September 18, 2006, Section XXII)

5.123 PERMANENCY REVIEW HEARINGS

A. Purpose. The Court shall conduct a Permanency Review Hearing to review a child's placement and welfare.

B. Frequency. The Court shall conduct a Permanency Review Hearing every twelve (12) months.

C. Reports Required. Before every Permanency Review Hearing a written report of the condition of a minor is to be filed by the caretaker that includes education, report card grades and absences, health and progress of the minor. The Tribal Social Services worker shall file a home study report with placement recommendations and with an independent assessment of the child's welfare.

(Source: WOS 2006-18, September 18, 2006, Section XXIII)

5.124 AUTHORIZATION OF MEDICAL TREATMENT

A. Circumstances for Court Order. At any time, regardless of whether a child is under the authority of the Court, the Court may authorize medical or surgical care for a child when:

1. A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or

2. A physician informs the Court orally or in writing that in his/her professional opinion, the life of a child would be greatly endangered without certain treatment and the parent, guardian or custodian refuses or fails to consent. If time allows in a situation of this type, the Court shall cause every effort to be made to grant the parent, guardian or custodian an informal hearing, but this hearing shall not be allowed to further jeopardize the child's life or health.

B. Parental use of spiritual treatment to be given consideration. In making its order the Court shall give due consideration to any treatment being given the child by prayer or through other traditional spiritual practices, if the child or his/her parent, guardian or legal custodian are adherents of an established religious denomination that relies on this form of treatment, in lieu of medical treatment.

C. Written Order. After entering any authorization under this Section, the Court shall reduce the circumstances, findings and authorization to writing and enter it in the records of the Court and shall cause a copy of the authorization to be given to the appropriate Physician, hospital, or both.

D. Oral Authorization for Treatment Sufficient. Oral authorization by the Court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital. No physician or hospital nor any nurse, technician or other person under the direction of such physician or hospital shall be subject to criminal or civil liability in the Court for performance of care or treatment in reliance on the Court's authorization, and any function performed there under shall be regarded as if it were performed with the child's and/or the parent authorization.

(Source: WOS 2006-18, September 18, 2006, Section XXIV)

5.125 EMANCIPATION

A child who is seventeen (17) years of age may petition the Court for emancipation. The Court shall grant such status when the child proves to the Court that the child is capable of functioning as an independent and responsible citizen of the community.

(Source: WOS 2006-18, September 18, 2006, Section XXV)

5.126 TERMINATION OF PARENTAL RIGHTS

A. Purpose. The purpose of this Section is to provide for the voluntary and involuntary termination of the parent child relationship and for the substitution of parental care and supervision by judicial process. This Section shall be construed in a manner consistent with the philosophy that the family unit is of most value to the community and the individual family citizens when that unit remains united, and that termination of the parent child relationship is of such vital importance that it should be used only as a last resort when, in the opinion of the Court, all efforts have failed to avoid termination and it is in the best interest of the child concerned and of the Tribe to proceed under this Section.

B. Mandated Request for Termination of Parental Rights. The Department of Social Services shall include a request for termination of parental rights within the initial petition filed with the Court, if the parent is a suspected perpetrator or a parent is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk. In the following circumstances, the Court will consider the request for termination at the initial dispositional hearing. The mandated petition must include one of the following citations.

1. Abandonment of a young child;

2. Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate;

3. Battering, torture or other severe physical abuse;

4. Loss or serious impairment of an organ or limb; or

5. Life threatening injury; murder or attempted murder.

C. Grounds for Involuntary Termination. The Court may only terminate the parental rights of a parent to a child if the Court finds, beyond a reasonable doubt, one or more of the following exist:

1. The child has been deserted under either of the following circumstances:

a. The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identify cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

b. The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

2. The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

a. The parent's act caused the physical or sexual abuse and the Court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

b. The parent who had the opportunity to prevent the physical or sexual abuse failed to do so and the Court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

c. A non-parent's act caused the physical or sexual abuse and the Court finds that there is a reasonable likelihood that the child will suffer from injury or abuse

in the foreseeable future if placed in the parent's home.

3. The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

a. The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

b. Other conditions exist that cause the child to come within the Court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

4. Parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful, and there is a reasonable expectation that custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

5. Conviction of Violent or Sexual Crime. A parent of the child is convicted of a violent or criminal sexual crime against the other parent or a sibling of the child.

6. Conviction of a Felony. A parent of the child is convicted of a felony of a nature as to prove the unfitness of the parent to have future custody of the child.

7. Imprisonment for More than two (2) Years. The parent is imprisoned for over two (2) years and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

D. Termination at Initial Disposition. If a petition to terminate parental rights to a child is filed, the Court may enter an order terminating parental rights under subsection (b) at the initial dispositional hearing.

E. Quality of Evidence. The same rules of evidence which apply at adjudication under Section XIX [WOTC 5.119] shall apply in termination proceedings.

F. Termination of Parental Rights Order. An order terminating parental rights under this Statute may not be entered unless the Court makes findings of fact, states its conclusions of law, and includes the legal basis for the order. Brief, definite, and pertinent findings and conclusions on the contested matters are sufficient. The Court shall state the findings and conclusions in a written opinion. If the Court does not issue a decision on the record following hearing, it shall file its decision within sixty (60) days after the taking of final proofs.

G. Voluntary Relinquishment of Parental Rights. Parental rights may be voluntarily terminated by a parent in writing, if signed by the parent in the presence and with approval of the Court. Relinquishment shall not be accepted or acknowledged by the Court prior to ten (10) days after birth of the child. The Court shall ensure that the parent understands the consequences of the voluntary termination prior to approving it. A parent who wishes to relinquish his/her parental rights shall be provided an interpreter if he/she does not understand the English or Odawa language used by the Court. Prior to the entry of an order of termination, the Court shall determine that entry of such an order is in the best interest of the affected child and of the Tribe.

H. Withdrawal of Voluntary Relinquishment. A parent who has voluntarily relinquished parental rights to a child may withdraw such consent to termination of parental rights at any time prior to the issuance of a final adoption decree. A person who has voluntarily relinquished parental rights may withdraw such consent and demand re-establishment of the parent child relationship upon a showing to the Court of clear and convincing evidence that such consent was obtained by fraud or duress.

I. Child's Continued Right to Benefits. An order terminating the parent child relationship shall not disentitle a child to any benefits due the child from any third person, agency, state or the United States, nor shall any action under this Statute be deemed to affect any rights and benefits that the child derives from the child's citizenship in or eligibility for citizenship in a federally

recognized tribe.

J. Advise of Right to Appeal. Immediately upon entry of an order terminating the parental rights, the Court shall advise the respondent parent orally or in writing that the parent is entitled to appellate review of the order. Appellate review shall be by right. The clearly erroneous standard shall be used in reviewing the findings of the Children's Court on appeal from an order terminating parental rights.

K. Post Termination Review Hearings. If a child remains a ward of the Court following the termination of parental rights to the child, the Court shall conduct a review hearing, at least every twelve (12) months to review the progress toward permanent placement of the child. The Court shall make findings on whether reasonable efforts have been made to establish permanent placement for the child and may enter such orders as it considers necessary in the best interest of the child.

(Source: WOS 2006-18, September 18, 2006, Section XXVI)

5.127 ADOPTION

A. Purpose. The purpose of this Statute is to protect the rights and the well being of children, natural parents, and adoptive parents. It is the policy of the Tribe to promote the adoption of Indian children by citizens of the Tribe.

B. Jurisdiction. The Court shall have jurisdiction over all adoptions.

C. Types. The tribe recognizes the following types of adoption:

1. Open. The parental rights of the biological parents will be terminated but visitation rights of the parents and/or other named citizens of the child's biological family will be maintained as outlined in the adoption order;

2. Closed. The parental rights of the biological parents will be terminated and visitation rights of the parents and/or other named citizens of the child's biological family will not be maintained. All contact by the biological parents and/ or family will be

forbidden;

3. Open Traditional. Parental rights will be granted to the adoptive party and the biological parent's rights will not be terminated. The adoptive parents will have the sole parental authority to make all decisions regarding the care and upbringing of the adopted child(ren). The visitation rights of the parents and/or other named citizens of the child's biological family will be maintained as outlined in the adoption order; and

4. Closed Traditional. Parental rights will be granted to the adoptive party and the biological parent's rights will not be terminated. The adoptive parents will have the sole parental authority to make all decisions regarding the care and upbringing of the adopted child(ren). The visitation rights of the parents and/or other named citizens of the child's biological family will not be maintained. All contact by the biological parents and/ or family will be forbidden.

D. Who May File a Petition. Any person over the age of 21 may file an adoption petition. Married persons or a couple maintaining a home together must make a joint petition, except where one spouse is a natural parent of the adoptee.

E. Parental Consent to Adoption. The Court may order adoption when written consent executed by surviving parent(s) or guardian has been filed with the Court. The consent must be signed in the presence of a court of competent jurisdiction. The Court shall satisfy itself that persons consenting have been informed of the nature and consequences of their actions. The minority-age status of parent (s) shall not be a bar to the right of consent nor shall it invalidate such consent.

1. Minority-Age Status. The minority-age status of parent(s) shall not be a bar to the right of consent nor shall it invalidate such consent.

F. Non-Consenting Natural Parents. The rights of non-consenting natural parents may be terminated after all active efforts to prevent the removal of a child from his family, and if removed, to reunite the child with his family has been exhausted. The Court may execute consent to adoption of such children or authorize another person to do so.

G. Withdrawal of Consent. Consent to adoption may be withdrawn by a parent(s) whose parental rights have not been terminated at any time before the entry of the final order of adoption.

H. Petition for Adoption. The petition for adoption shall be filed with the Court. It shall be signed by the adopting parent(s) and shall contain:

1. The full name, residence, documentary proof of the date and place of birth, and the degree of Indian blood of the adoptee;

2. The full name(s), residence(s), date(s), and place(s) of birth, degree(s) of Indian blood, occupation(s), and documentary proof of marital status of adopting parent(s);

3. Proof of parental consent to the adoption;

4. A statement by the adopting parent(s) that it is the desire of the adopting parent(s) that the legal relationship of a parent and child be established between them and the adoptee; and

5. A full description and statement of value of all property owned or possessed by the adoptee, to the best of the petitioner's knowledge.

I. Pre-Placement Assessment. The Court shall not order a pre-adoptive placement until it receives and reviews a pre-placement assessment either prepared by the Tribal Social Services Department or prepared by a social services agency of a different jurisdiction and approved by the Tribal Social Services Department.

1. A pre-placement assessment must contain the following information:

a. Age, nationality, race or ethnicity, any religious preference, and tribal affiliation, if any.

b. Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the

adoptive parent.

c. Physical and mental health, including any history of substance abuse.

d. Educational and employment history and any special skills and interests.

e. Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual.

f. Reason for wanting to adopt.

g. The capacity and disposition of the parties involved to immerse the child in the Tribe's culture and traditions;

h. Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding.

i. Whether the individual has ever been convicted of crime.

j. Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well being of the child.

J. Consent of Biological Parents.

1. A biological parent whose parental rights to a child being considered for adoption have not been terminated by a court of competent jurisdiction may voluntarily consent to

the adoption of the child by petitioner.

2. Requirements for validity. A consent to adoption must be executed either:

a. In the presence of the Court after the Court explains:

i. The consent may result immediately in a pre-adoptive placement with placement with petitioner. Once the pre-adoptive placement is ordered by the Court, the parent will have no legally enforceable right to visit or have any contact with the child, unless ordered under Section V of this Statute.

ii. The consent may result in a final order of adoption. Upon entry of the final adoption order, the parent shall have no legally recognized relationship to the child, and have no legally enforceable right to visit or have any contact with the child, unless under Section V of this Statute.

iii. If for any reason prior to the entry of a final adoption order, petitioner does not retain custody of the biological parent unless the biological parent is also subject to involuntary removal under the Child Welfare Statute (WOTC 5.101 *et seq*).

iv. Outside of the presence of the Court, with two witnesses and notarized, and containing such statements and under such circumstances as the Court is assured that the consent was voluntary executed and that the parent fully understood the ramifications set out in subsection III (A)(1) above.

3. Consent conditioned on open adoption. Consent to adoption may be expressly conditioned on entry of an order of the Court approving an open adoption agreement between the parent and petitioner under Section V of this Statute.

K. Open Adoption Agreements. Simultaneously with, or prior to, execution of a consent to adoptive placement, the parent and petitioner may execute an open adoption agreement that sets

out post adoption visitation rights of the parent and/or other named citizens of the child's biological family. Upon accepting consent conditioned on such agreement, the Court shall enter the open adoption agreement as a fully enforceable order of the Court. Provided, if the Court finds that such agreement would significantly threaten the safety of the child, the Court may refuse to accept the consent or enter the open adoption order. In such situations, an adoptive placement can only proceed following involuntary termination of parental rights under this child protection statute.

L. Recommendation of the Indian Child Welfare Commission. Upon completion of the investigative report, the adoption worker shall submit a report to the Indian Child Welfare Commission and the Commission shall meet with the adoption worker and formulate a written recommendation for the Court.

M. Initial Hearing. Within ten (10) days of the receipt of the recommendation from the Commission, the Court shall schedule a hearing on the petition for adoption.

1. Notice. The adoptee, adopting parent(s) and any other party of record shall be given notice of the hearing.

2. Appearance Mandatory. The adoptee and adopting parent(s) shall appear in person at the initial hearing.

N. Waiver of Trial Custody Period. If the adoptee has been in the custody of the adoptive parent(s) for more than six (6) months and the Commission recommends adoption at the initial hearing, the Court, upon a motion by the Presenting Officer, may waive the trial custody period and the final adoption decree may be entered at the initial hearing.

O. Final Hearing If Trial Custody Period Not Waived. Not less than ninety (90) days, or more than one hundred twenty (120) days, after the adoptee has been in the custody of the adoptive parent(s), the adoptee and adoptive parent(s) shall appear before the Court. They shall report to the Court about the welfare of the adoptee, the current status of their home, and the desire of the adoptive parent(s) to finalize the adoption.

P. Adoption Decree; Extension of Trial Custody Period. If the Court is satisfied that the

interests of the adoptee are best served by the proposed adoption, the final adoption decree may be entered. The Court may order, or adoptive parent(s) may request, a six (6) months extension of the trial custody period, after which a final adoption decree must be entered or the adoptee returned to the custody of the Court. The Court shall provide a certified copy of the adoption decree to the Tribal Enrollment Office.

Q. Effect of the Final Adoption Decree.

1. Parent and Child Relationship. After the final adoption decree is entered, the relation of parent(s) and child and the rights, duties and other legal consequences of a natural relationship of child to parent(s) shall thereafter exist between the adoptee and the adoptive parent(s).

2. Tribal Status Not Affected. The status of an adoptee as a citizen of the Tribe shall not be affected by adoption. An adoptee that is eligible for citizenship in the Tribe shall be enrolled as a tribal citizen prior to the finalization of the adoption.

3. Assumption of Surname. Minors adopted by order of the Court shall assume the surname of the person(s) whom they are adopted, unless the Court orders otherwise.

4. Rights of Adoptees.

a. Adoptees shall be entitled to the same rights of person and property as children or heirs of the adoptive parents.

b. Adoptees shall be entitled to the society and companionship of their natural siblings.

5. Tribal Citizenship. Any child of Indian descent, who is legally adopted by a citizen of the Tribe, shall have citizenship rights consistent with Tribal law.

R. Confidentiality of Proceedings and Record. Unless the Court otherwise orders, hearings held in proceedings under this Section shall be confidential and shall be held in closed session, without the admission of any persons other than the interest parties and witnesses. All

papers, records, petitions, or files pertaining to proceedings, except the final order of adoption, shall be maintained by the Court in locked files, and shall not be released to anyone, except pursuant to Court order.

(Source: WOS 2006-18, September 18, 2006, Section XXVII)

5.128 CHILD PROTECTION RECORDS

A. Children's Court Records. A record of all hearings under this Statute shall be made and preserved. All Children's Court records shall be confidential and shall not be open to inspection to any but the following:

1. The child;

2. The child's parent, guardian or custodian;

3. The child's counsel or Court appointed special advocate;

4. The Children's Court personnel directly involved in the handling of the case;

5. Any other person by order of the Court, having legitimate interest in the particular case or work of the Court.

B. Law Enforcement and Social Services Records. All law enforcement and social services records shall be confidential and shall not be open to inspection to any but the following:

1. The child;

2. The child's parent, guardian or custodian;

3. The child's counsel or Court appointed special advocate;

4. Law enforcement and social service personnel, including the Child Welfare

Commission and Family Services Coordinating Team, Tribal Presenting Officer, directly involved in the handling of the case;

5. The Children's Court personnel directly involved in handling of the case;

6. Pursuant to Section 552a of title 5, the Family Educational Rights and Privacy Act of 1974 (20 U.S. C. 1232g) agencies of any Indian tribe, of any state, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. Indian tribal governments shall be treated the same as other Federal Government entities; and

7. Any other person by order of the Court upon petition from a person or entity having legitimate interest in the particular case.

C. Access to Child Protection Service Records. Upon written request child protection records shall be released under the following procedures:

1. Records may be released only to a person identified in subsection (B) above. All information in the record shall be released, unless mental health records in the file are subject to a statement from the mental health provider that such records contain information which, if released, might be harmful to the mental health client or others.

2. The Tribal Social Services Department shall review the record to determine which sections may be shared without revealing the identity of the reporting person, or any other information that would jeopardize the health, safety and well-being of any person.

3. The name and other identifying information of the reporting person need not be deleted if the entity requesting record access is a law enforcement agency, prosecuting attorney, or a child protection agency of another jurisdiction.

4. In the event that compelling reasons exist for the release of the reporting person's name, that person must authorize release of his/her identity in writing. If the person does not do so, a Court order shall be requested for release of the name.

5. Any information released from child protection records shall be clearly designated as confidential.

D. Unauthorized Release of Confidential Information. Any person who permits or encourages the unauthorized dissemination of child protection records shall be subject to a civil fine not to exceed $5,000.00 for each action or omission. The Court may remit all or a portion of the fine to any person demonstrating harm from the unauthorized release and dissemination of child protection records.

(Source: WOS 2006-18, September 18, 2006, Section XXVIII)

5.129 REHEARING

A. Time and Grounds. A party may seek a rehearing or new trial by filing a written motion stating the basis for the relief sought within thirty (30) days after the decision of the disposition or supplemental disposition. The Court may entertain an untimely motion for good cause shown. A motion will not be considered unless it presents a matter not previously presented to the Court, or presented but not previously considered by the Court, which if true would cause the Court to reconsider the case.

B. Notice. All parties must be given notice of the motion in accordance with Section XVII [WOTC 5.117].

C. Response by Parties. Any response by parties must be in writing and filed with the Court and opposing parties within seven (7) days after notice of the motion.

D. Procedure. The judge may affirm, modify or vacate the decision previously made in whole or in part, on the basis of the record, the memoranda prepared, or a hearing on the motion, whichever the Court in its discretion finds appropriate for the case.

E. Hearings. The Court need not hold a hearing before ruling on a motion. Any hearing conducted shall be in accordance with the rules for dispositional hearings. The Court shall state the reasons for its decision on the motion on the record or in writing.

F. **Stay**. The Court may stay any order pending a ruling on the motion.

(Source: WOS 2006-18, September 18, 2006, Section XXIX)

5.130 APPEALS

A. **Who Can Appeal**. Any party to a Children's Court hearing may appeal a final Children's Court order to the Appellate Court. An order terminating parental rights is appealable by right.

B. **Time Limit for Appeal**. Any party seeking to appeal a final Children's Court order shall file a written notice of appeal with the Court clerk within thirty (30) days of the final order.

C. **Review of Standard**. The clearly erroneous standard shall be used in reviewing the findings of the Children's Court on appeal.

D. **Record**. For purposes of appeal, a record of the proceedings in Children's Court shall be made available to the child his/her parents, guardian or custodian, their counsel and others upon Court order. The party seeking the appeal shall pay cost of obtaining this record.

E. **Stay of Order**. An order of the Children's Court may be stayed upon order of the Appellate Court.

(Source: WOS 2006-18, September 18, 2006, Section XXX)

5.131 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.

(Source: WOS 2006-18, September 18, 2006, Section XXXI)

5.132 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-18, September 18, 2006, Section XXXII)

Chapter 2. Child Welfare Commission

5.201 SHORT TITLE AND PURPOSE

A. Short Title

This Statute may be cited as the "Child Welfare Commission Act" and amends WOS 1996006.

B. Purpose

Children are the Tribe's most vital and cherished resource. The Tribe's future depends on the health and well-being of its children. Children have a sacred right to receive the care and guidance necessary for their spiritual, emotional, mental and physical development. Feeling pride from their identity as Odawa will help them grow into strong, healthy, responsible adult Tribal members. The purpose of the Child Welfare Commission created under this statute is to protect and promote the welfare of Tribal children and families by fully exercising the Tribe's rights and responsibilities under the Indian Child Welfare Act of 1978 and Tribal Law.

(Source: WOS 2009-013, May 3, 2009, Section I)

5.202 DEFINITIONS

A. "Department" means the Human Services Department.

B. "Emergency" means an unexpected situation that requires immediate action.

1.

(Source: WOS 2009-013, May 3, 2009, Section II)

5.203 CREATION OF CHILD WELFARE COMMISSION

A. Creation of Commission. The Tribal Council hereby creates the Child Welfare Commission, which shall consist of five (5) Tribal members at least eighteen years of age appointed by the Tribal Council

B. Term and compensation. Members of the Child Welfare Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. One of the Commission members shall be appointed by the Commission to serve as Chairperson for a one year term. There shall be no limit on reappointment as long as the chairperson remains on the Commission. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the Tribal Council's determination of the time to be expended upon Commission duties and the qualifications of the appointed Commissioners.

C. Oath of Office. Upon appointment, The Tribal Court shall administer the oath of office to the members of the Child Welfare Commission 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 Statute.

D. Vacancies. In the event a vacancy occurs in the Child Welfare Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal Citizen to fill the remaining term of office.

E. Removal. Members may be removed in accordance with applicable laws**.**

A.

(Source: WOS 2009-013, May 3, 2009, Section III)

5.204 DUTIES OF THE CHILD WELFARE COMMISSION

The Child Welfare Commission shall have the following duties:

A. Shall be the licensing and monitoring body of community based shelter facilities including: group, shelter, foster, adoptive homes, and child placing agencies in consultation with the Department and other applicable entities.

B. Be advised of pending state court proceedings as provided in the Indian Child Welfare Act and may make recommendations to the Tribal Prosecutor regarding intervention in such proceedings and transfer of jurisdiction from state court to the Tribal Court.

C. Advise the Tribal Council and Tribal Court on child welfare matters and recommend statutes, policies and procedures to protect children and help families.

D. Make recommendations to the Tribal Prosecutor regarding the need to take formal Court action to protect a child.

E. Make case management recommendation to the Tribal Social worker regarding the care, custody and supervision of Tribal children under court jurisdiction.

F. Make recommendations for programs and services to the Department.

G. Engage in further activities as directed by the Tribal Council to protect and improve the welfare of Tribal Children.

A.

(Source: WOS 2009-013, May 3, 2009, Section IV)

5.205 LICENSING OF CHILD PLACEMENT

A. The Commission may license community based shelter facilities that provide a safe and loving home that will be nurturing to children.

B. The Commission shall develop regulations for issuing and monitoring facility licenses that shall be submitted to Tribal Council for approval. Such regulations shall include minimal home safety standards and qualifications for license holders.

A.
(Source: WOS 2009-013, May 3, 2009, Section V)

5.206 NOTICE

A. Pending State Court Proceedings. The Tribal Prosecutor shall insure that the Chairperson of the Commission receives notice of all proceedings pending in State Court where the Tribe has been notified under the Indian Child Welfare Act.

B. Children Domiciled on the Reservation. Tribal Prosecutor shall notify the Commission of all instances where they believe Tribal Court action may be necessary to protect a child domiciled on the Reservation.
(Source: WOS 2009-013, May 3, 2009, Section VI)

5.207 MEETINGS, EMERGENCY MEETINGS, VOTING, INVESTIGATION, CONFLICTS OF INTEREST, CONFIDENTIAL RECORDS

A. Meetings. The Child Welfare Commission shall meet as necessary to carry out its duties. Due to the confidential nature of the business conducted by the Child Welfare Commission, meetings or portions of meetings where specific cases are being discussed shall be closed to all persons other than those whose participation is necessary and appropriate to the specific case.

B. Emergency Meetings. Emergency meetings shall be held for any urgent matter that meets the definition of an emergency meeting.

C. Voting. Actions of the Child Welfare Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters brought before the Commission. A quorum shall consist of two (2) members, with one member being the Chair, provided, an action may be ratified by non-attending members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be

reduced to writing and placed in the minutes and approved at the next regularly scheduled Commission meeting.

D. Investigation. The Commission shall not be involved in gathering information on Tribal families and children outside of Commission meetings. Field work, such as home studies, shall be conducted by Department. When requested by the Commission, the Department shall provide the Commission with all written reports and studies on Tribal families and children. The Commission may direct the Department to gather additional information where appropriate. All members shall have access to the same information. If Commission members are contacted individually, they shall refer inquiries to the appropriate Tribal official or staff member.

E. Conflicts of Interest. Commission members who are serving as foster parents or guardians may participate in the review of the status of children under their own care only to the extent as any other foster parent or guardian. Commission members shall not participate in the review of the status of children under the care of members of their immediate family (father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child) and may absent themselves in any situation where their relationship with individuals before the Commission may interfere with their objectivity, or the Commissioner otherwise believes that he/she has or appears to have a conflict of interest.

F. Confidential Records. All records of the Commission involving specific child welfare matters shall be kept confidential. The Tribal Court may review or receive copies of written records kept by the Commission. Confidential records may be reviewed by an auditor and such auditor shall adhere to any applicable Code of Conduct standards.

(Source: WOS 2009-013, May 3, 2009, Section VII)

5.208 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.

(Source: WOS 2009-013, May 3, 2009, Section VIII)

5.209 EFFECTIVE DATE

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

(Source: WOS 2009-013, May 3, 2009, Section IX)

Chapter 3. Direct Consent and Open Adoptions

5.301 PURPOSE

The purpose of this statute is to allow for the voluntary adoptive placement of Tribal children to foster their stability and well being, and, whenever appropriate, provide for the continued contact between the adopted child, the child's biological parents, grand-parents, and/or other members of the extended family.

(Source: WOS 2000-09, July 23, 2000, Section I)

5.302 DEFINITIONS

A. "**Court**" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

B. "**Parent**" means the biological parent of a child.

C. "**Petitioner**" means a person who files a petition to adopt a child.

D. "**Child**" means a person less than eighteen years of age.

E. The terms "**parent**" and "**petitioner**," include the plural unless inconsistent with the

context where such terms appear.

(Source: WOS 2000-09, July 23, 2000, Section II)

5.303 PETITION FOR ADOPTION

A. An adoption proceeding is commenced when a person, or if married, husband and wife jointly, who desires to adopt a child over whom the Tribal Court properly exercises jurisdiction, files a petition for adoption in the Court. Petitioner must serve the petition on the biological parents of the child whose rights have not been terminated by a court of competent jurisdiction, and the Child Welfare Commission of the Little Traverse Bay Bands of Odawa Indians.

B. **Contents of Petition**. The petition for adoption shall be verified by each petitioner and shall contain the following information:

1. The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

2. The name, date and place of birth, and place of residence if known of the adoptee.

3. The relationship, if any, of the adoptee to the petitioner.

4. The full name by which the adoptee shall be known after adoption.

5. The full description of the property, if any, of the adoptee.

6. The names of the parents of the adoptee and the place of residence of each living parent if known, and whether, to the best of Petitioner's knowledge, the parents intend to consent to adoption by petitioner.

7. The name and place of residence of the guardian or attorney of the person or estate of the adoptee, if any has been appointed.

8. Simultaneously with the Petition or a soon as practicable thereafter, the petitioner

shall file with the Court a copy of a pre-placement assessment prepared in accordance with section IV [WOTC 5.304] of this statute, of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee.

(Source: WOS 2000-09, July 23, 2000, Section III)

5.304 PRE-PLACEMENT ASSESSMENT

A. The Court shall not order a pre-adoptive placement until it receives and reviews a pre-placement assessment either prepared by the Tribal Social Services Department or prepared by a social services agency of a different jurisdiction and approved by the Tribal Social Services Department.

B. A pre-placement assessment must contain the following information:

1. Age, nationality, race or ethnicity, any religious preference, and tribal affiliation, if any;

2. Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the adoptive parent;

3. Physical and mental health, including any history of substance abuse;

4. Educational and employment history and any special skills and interests;

5. Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual;

6. Reason for wanting to adopt;

7. Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding;

8. Whether the individual has ever been convicted of a crime; and

9. Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(Source: WOS 2000-09, July 23, 2000, Section IV)

5.305 CONSENT OF BIOLOGICAL PARENTS

A. A biological parent whose parental rights to a child being considered for adoption have not been terminated by a court of competent jurisdiction may voluntarily consent to the adoption of the child by petitioner.

B. **Requirements for validity**. A consent to adoption must be executed either:

1. In the presence of the Court after the Court explains:

a. The consent may result immediately in a pre-adoptive placement with petitioner. Once the pre-adoptive placement is ordered by the Court, the parent will have no legally enforceable right to visit or have any contact with the child, unless ordered under Section VI [WOTC 5.306] of this Statute.

b. The consent may result in a final order of adoption. Upon entry of the final adoption order, the parent shall have no legally recognized relationship to the child, and have no legally enforceable right to visit or have any contact with the child, unless ordered under Section V [WOTC 5.306] of this Statute.

c. If for any reason prior to the entry of a final adoption order, petitioner

does not retain custody of the child, the child will be returned to the custody of the biological parent unless the biological parent is also subject to involuntary removal under the Child Welfare Code (WOTC 5.101 *et seq.*)

2. Outside of the presence of the Court, with two witnesses and notarized, and containing such statements and under such circumstances as the Court is assured that the consent was voluntarily executed and that the parent fully understood the ramifications set out in subsection III(A)(1) above.

C. Consent conditioned on open adoption. A consent to adoption may be expressly conditioned on entry of an order of the Court approving an open adoption agreement between the parent and petitioner under Section VI [WOTC 5.306] of this Statute.

(Source: WOS 2000-09, July 23, 2000, Section V)

5.306 OPEN ADOPTION AGREEMENTS

Simultaneously with, or prior to, the execution of a consent to adoptive placement, the parent and petitioner may execute an open adoption agreement that sets out post adoption visitation rights of the parent and/or other named members of the child's biological family. Upon accepting a consent conditioned on such agreement, the Court shall enter the open adoption agreement as a fully enforceable order of the Court. Provided, if the Court finds that such agreement would significantly threaten the safety of the child, the Court may refuse to accept the consent or enter the open adoption order. In such situations, an adoptive placement can only proceed following involuntary termination of parental rights under the provisions of the Child Welfare Code (WOTC 5.101 *et seq.*)

(Source: WOS 2000-09, July 23, 2000, Section VI)

5.307 PRE-ADOPTIVE PLACEMENT AND ASSESSMENT

A. After holding a hearing on the Petition, finding that the pre-placement assessment indicates the suitability of the Petitioner to adopt the child, accepting the consent of the parent, and, if applicable, entering an open adoption agreement order, the Court shall order a pre-

adoptive placement of the child with Petitioner. During the pre-adoptive placement, Petitioner's rights to care for the child shall be equivalent to those of a legally appointed guardian. The parent and/or members of the child's biological extended family, shall have no rights to visit the child unless specified in an agreement ordered by the Court under Section VI [WOTC 5.306].

B. Between 150-180 days from the commencement of the pre-adoptive placement, the Tribal Social Services Department shall prepare and file in the Court a pre-adoptive placement assessment to update the information contained in the pre-placement assessment and assess the functioning of the child while actually in the care and custody of petitioner. The assessment may be prepared by a social services agency of a different jurisdiction if approved by the Tribal Social Services Department.

(Source: WOS 2000-09, July 23, 2000, Section VII)

5.308 FINAL ADOPTION ORDER

A. No sooner than six months after the commencement of the pre-adoptive placement the Court shall hold a hearing to determine whether to enter a final order of adoption. If the pre-adoptive placement assessment finds petitioner suitable to adopt the child, and petitioner reaffirms his/her commitment to adopt the child thereby assuming full legal and moral responsibility for the parental care and upbringing of the child, the Court shall enter an order terminating the parental rights of the biological parent and a final order of adoption naming petitioner as the adoptive parent of the child. If the child is an enrolled member, or eligible to be an enrolled member in the Little Traverse Bay Bands of Odawa Indians, such final order shall contain a provision prohibiting the adoptive parent from disenrolling or failing to enroll the child.

B. **Effect of Final Order of Adoption**. Upon entry of the final order of adoption, the adoptive parent shall from that date forward have the same legal relationship with, authority over, and responsibility for, the adopted child as would a biological parent over a child. From that date forward the biological parent shall have no legal relationship to the child, and the parent and child's biological family shall have no legally enforceable right to visit the child except as stated in a Court ordered open adoption agreement under Section VI [5.306].

C. Tribal membership. Unless otherwise specified in Tribal law, membership rights are determined by the child's biological family, and are not affected by adoption of the child.

(Source: WOS 2000-09, July 23, 2000, Section VIII)

5.309 RETURN OF CHILD TO PARENT

If for any reason petitioner is unable or unwilling to carry through with the adoption, the Court shall order the child returned to the care and custody of the child's biological parent unless the child is also placed outside of parental care pursuant to an involuntary proceeding under the Child Welfare Code (WOTC 5.101 *et seq.*).

(Source: WOS 2000-09, July 23, 2000, Section IX)

5.310 ADOPTION RECORDS

Until the adoptee reaches the age of eighteen, records of adoption proceedings may only be accessed by the adoptive parent or subsequent legal guardian of the child for good cause, which shall include family related medical information, and by the Tribal Enrollment Department or enrollment departments of other Indian tribes, to the extent necessary to confirm eligibility for enrollment. Enrollment Departments shall keep such records strictly confidential. At any time after reaching the age of eighteen, the adoptee may review and/or copy any records in his/her adoption file.

(Source: WOS 2000-09, July 23, 2000, Section X)

Chapter 4. Juvenile Justice

5.401 SHORT TITLE

A. This Statute shall be entitled "The Juvenile Justice Statute". It repeals and replaces the Waganakising Odawak Statute 2006-013. This Statute shall comply with all provision of the Little Traverse Bay Bands of Odawa Indians Constitution.
(Source: WOS 2007-011, January 3, 2008, Section I)

5.402 PURPOSE

The Little Traverse Bay Bands of Odawa Indians, referred to in this Statute as "the Tribe", has determined that:

A. Juveniles are valuable Tribal resources, and that the welfare of juveniles is a vital concern of the Tribe;

B. It is essential that Tribal resources, identity, and culture be preserved by providing for enhancement and strengthening of the family as the primary means of securing a vital Tribal community.

C. The best interests of the Tribe and its juveniles are served when the juveniles of the Tribe receive the care and guidance necessary for their spiritual, emotional, mental, and physical development, all of which will prepare them to become contributing Citizens of the Tribe;

D. When concerns involving juveniles arise, the Tribal Court, with advice from the Tribal Community Justice Coordinator, is best able to resolve the concerns and provide juveniles with the care and guidance that is necessary for their well-being;

E. Tribal Court, whenever practical, is preferable to state court for consideration of matters involving juveniles;

F. When the Court must make a placement outside of the home, the best interests of the Tribe and its juveniles are served by providing for their care and placement in an environment which will ensure that juveniles receive the care and guidance necessary for their spiritual, emotional, mental, and physical development; and

G. When concerns involving juveniles arise, the best interests of the community are served if the Tribal Court has jurisdiction over all persons in the family or household who is a part of the concern giving rise to the jurisdiction, or who may be part of the solution to the concerns.

(Source: WOS 2007-011, January 3, 2008, Section II)

5.403 DEFINITIONS

For purposes of this Statute, the following definitions shall apply:

A. **"Adult"** means a person eighteen (18) years of age or older.

B. **"Citizen"** means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.

C. **"Community Justice Coordinator"** means the staff person within the Tribal Court system whose duties include those described in this Statute.

D. **"Counsel"** means any licensed attorney admitted to practice in Tribal Court, who as an officer of the Court provides legal assistance to any party during the course of any proceeding under this Statute.

E. **"Custodian"** means one who has physical custody of a juvenile and is providing food, shelter, and supervision to that juvenile.

F. **"Delinquent Act"** means any act by a juvenile identified under the "Juvenile Offender" and "Juvenile in Need of Supervision" definitions of this Statute.

G. **"Detention"** means the placement of a juvenile in a physically restrictive facility.

H. **"Diversion"** means a method of dealing with a juvenile without the need of a formal court proceeding.

I. **"Guardian"** means a person other than the juvenile's parent, appointed by a court of competent jurisdiction, who is legally responsible for that juvenile.

J. **"Incident Report"** means a report to the Prosecuting Attorney containing allegations indicating that a juvenile under the jurisdiction of the Tribe has committed a delinquent act.

K. **"Juvenile"** means a person under eighteen (18) years of age.

L. **"Juvenile Offender"** means any juvenile who commits the following acts:

1. A violation of any Tribal criminal statutes;

2. Possession or consumption of alcohol or tobacco (this does not include the use of tobacco for traditional purposes).

M. **"Juvenile in Need of Supervision"** means any juvenile who commits the following acts:

1. A juvenile who repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program;

2. A juvenile who repeatedly disobeys reasonable and lawful commands or directives of his parent, legal guardian, or other custodian; or

3. A juvenile who willfully and voluntarily absents himself from his or her home without the consent of his or her parent, guardian, or other legal custodian.

N. **"Juvenile Petition"** means the formal instrument that commences proceedings in the Court.

O. **"Least Restrictive Alternative"** means restrictions placed on the juvenile must be reasonably related to the Court's objective of correcting the delinquent behavior, and must be the least intrusive manner of achieving that objective.

P. **"Notice"** means the method by which the Court informs the parties, attorneys, and others of the date, time, and place of proceedings to be conducted by the Court.

Q. **"Parent"** means the mother, father or legal guardian of a juvenile who has the responsibility for the health, welfare, care, maintenance and supervision of the juvenile at the time the juvenile allegedly committed the delinquent act.

R. **"Reservation"** means as defined in the Constitution, *"all lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set our in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of Interior."*

S. **"Summons"** means the instrument with which the Court directs a party to appear before the Court.

T. **"Tribal Land"** means the Reservation, held in trust for the benefit of the Tribe by the United States, any land in which the Tribe has a beneficial ownership interest, and all land

designated as Indian Country in 18 USC 1151.

(Source: WOS 2007-011, January 3, 2008, Section III)

5.404 JURISDICTION AND COURT AUTHORITY

A. Statement of Jurisdiction . The Tribal Court system shall have jurisdiction over juvenile offenders and juveniles in need of supervision proceedings, if the juvenile is:

1. A member of a Federally Recognized Indian Tribe; and

2. The alleged offense occurred on Tribal land;

3. The juvenile's primary residence is on Tribal lands and the juvenile commits an offense while on a Tribally-sponsored event off Tribal lands; or

4. A case is transferred to Tribal Court from any state or tribal court, unless the Court transfers jurisdiction to the Adult Division of the Court, pursuant to Section VII(H) of this Statute; or

5. Not a member of a Federally Recognized Indian Tribe, but whose primary residence is on Tribal trust land and the alleged offense occurred on Tribal land.

B. Jurisdiction over the Family/Household. The Tribal Court shall have jurisdiction over all members of the family or household who are a part of the concerns giving rise to jurisdiction, or who may be a part of the solution to the concerns.

C. Transfers from Other Courts. The Tribal Court may accept transfers of a case from any other court if the alleged juvenile offender or juvenile in need of supervision is a Tribal member, or is a non-member juvenile who resides on Tribal trust lands.

D. Transfers to Other Courts. The Tribal Court may transfer a case to another court if the alleged offense occurred on Tribal land and the alleged juvenile offender or juvenile in need of supervision does not reside on Tribal land, and the other court is willing to accept transfer.

E. Adjudication Classification. No adjudication of the status of any juvenile under the jurisdiction of the Court shall be deemed criminal, unless the Court refers the matter to the Adult Division of the Court.

F. Closed Proceedings. Juvenile proceedings shall be closed to the general public to protect the privacy interests of the individuals and families involved.

G. Authority to Cooperate. The Court is authorized to cooperate with any court or federal, state, tribal, public, or private agency; to participate in any diversion, rehabilitation, training programs, or other service programs; and to receive grants-in-aid to carry out the purposes of this Statute.

H. Least Restrictive Alternative. The least restrictive alternative applies to all placement disposition actions taken by the Court under this Statute.

I. Court Records.

1. A record of all hearings under this Statute shall be made and preserved.

2. All Court records shall be confidential, and shall only be open to review by the following:

a. The juvenile or his legal representative;

b. The juvenile's parent(s), guardian, custodians or their legal representatives;

c. The Tribal Prosecutor;

d. The Tribal Community Justice Coordinator;

e. The Court staff;

f. The Judge or Justices involved in the case; and

J. Sealing Court Records. When a juvenile who has been the subject of any proceeding before the Court attains his/her twenty-first (21st) birthday, the Court shall seal both the Court and law enforcement records relating to that juvenile.

K. Civil Contempt of Court as applicable to this statute only.

1. Willful disobedience of, or willful interference with an order of the Court constitutes contempt of court.

2. The Court may fine an adult for contempt of court with a fine not to exceed one hundred dollars ($100.00). **3.** A juvenile may be fined for contempt of court with extension of probation, additional probation conditions, and a fine not to exceed one hundred dollars ($100.00),

L. Medical Examination. The Court may order a psychiatric or psychological examination of a juvenile who is alleged to be a juvenile offender or juvenile in need of supervision if issues of competence to stand trial or insanity are raised by the defense, or for any other reason that the Court deems appropriate. Reports shall be available to the defense and prosecuting attorney.

M. Fingerprints. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reasonable grounds to believe that the fingerprints are those of a juvenile in custody, the officer may fingerprint that juvenile for the purpose of immediate comparison with the latent fingerprints; provided that the law enforcement officials have obtained the written approval of the Court prior to the taking of prints. Copies of the fingerprints shall be immediately destroyed if the comparison is negative or if a juvenile petition is not filed against the juvenile.

N. Appeal.

1. For purposes of appeal, a record of the proceedings shall be made available to the juvenile, the juvenile's parent (s), guardian, custodian or legal representative. The party seeking the appeal shall pay costs of obtaining this record.

2. Any party to a Court hearing may appeal a final order or disposition of a case by filing a written notice of appeal with the Court within twenty-eight (28) days of the final order of disposition.

3. All appeals shall be conducted in accordance with applicable Tribal statutes and court rules.

(Source: WOS 2007-011, January 3, 2008, Section IV)

5.405 PROCEDURAL RIGHTS; NOTICE REQUIREMENTS

A. Applicability. The notice and procedural rights listed in this Chapter shall be afforded parties in each of the following proceedings:

1. Preliminary Hearing under Section VII(G);

2. Transfer to the Adult Division of Tribal Court under Section VII(H);

3. Trial under Section VII(J); and

4. Disposition Hearing under Section VII(N).

B. Notice.

1. Notice of proceedings shall be given to:

a. The juvenile;

b. The juvenile's parent(s), guardian, custodian or legal representative; and

c. All legal counsel of record.

2. Notice shall be given when a time for the proceedings has been established; provided at least ten (10) days is given before any non-preliminary hearing except in cases of emergency; provided further that notice is given as soon as possible in the case of a preliminary hearing or in the event of an emergency.

3. The notice shall contain:

a. The name of the Court;

b. The title of the proceeding;

c. A brief statement of the substance of the allegations against the juvenile;

d. The date, time, and place of the proceeding; and

e. A statement of the right to counsel, as set forth in Section V(D) of this Statute.

C. Summons.

1. At least ten (10) days prior to a trial or disposition hearing, the Court shall issue summons to:

a. The juvenile;

b. The juvenile's parent(s), guardian, legal representative, or custodian;

c. Any person the Court believes necessary for proper adjudication of the matter(s) before the Court; and

d. Any person the juvenile believes necessary for proper adjudication of the matter(s) before the Court; subject to the Court's discretion.

2. The summons shall contain the name of the Court and title of the proceedings;

and the date, time, and place of the hearing.

3. A copy of the juvenile Petition shall be attached to the summons.

4. The summons shall be served in the following order of preference:

a. Hand delivery to the person, by a Tribal Law Enforcement Officer or appointee of the Court;

b. First (1st) Class mail, if the summons cannot be served upon the person; or

c. By the following method[s], if the Tribal Court feels it would be likely to provide actual notice to the Respondent:

i. Service upon relatives, neighbors, friends, or others who are likely to know the Respondent's whereabouts. If the person, who receives the summons, denies knowledge of the party's whereabouts, such service shall not be deemed adequate;

ii. Service by legal notice in a daily publication or mailing of the Tribe circulated to the Tribal membership; and by posting the legal notice at the Tribal center; or

iii. Service by legal notice in a daily newspaper in the county of Respondent's last known residence for a three (3) day period, the last day of which is at least ten (10) days prior to the hearing; and by posting the legal notice at the Tribal center.

5. If a person who has been issued a summons fails to appear at the hearing, the Court shall hold the person in contempt of court, unless good cause is shown why that person did not appear.

D. Rights of Parties.

1. Right to Counsel:

a. The Judge shall inform the juvenile, the juvenile's parent(s), guardian, or custodian of their right to retain counsel by reading the following statement: "you have a right to have an attorney represent you at this hearing. However, you or your family must pay any fees for such representation."

b. If the parties are unable to pay for an attorney, the Judge shall make known to them any available services providing representation of which the Judge is aware.

c. If the parties appear at the hearing without an attorney, the Judge may grant a continuance if they need additional time to seek an attorney.

2. The right to a trial by a Judge (bench trial).

3. The juvenile need not be a witness against him/herself and no inferences can be made if the juvenile exercises the right to remain silent.

4. A parent, guardian, or custodian may not be compelled to give testimony against him/herself or against the juvenile, consistent with the Tribal Constitution and the Indian Civil Rights Act.

5. The Court shall give the juvenile, the juvenile's parent(s), legal representative, or custodian, the opportunity to introduce evidence, to be heard on their, own behalf, and to examine all witnesses.

(Source: WOS 2007-011, January 3, 2008, Section V)

5.406 PARENTAL RESPONSIBILITY

A. Parental Responsibility.

1. The parent of any juvenile has a continuous responsibility to exercise reasonable control and supervision over the juvenile and prevent the juvenile from committing or participating in the commission of any delinquent act.

2. The parental responsibility to exercise reasonable control includes, but not limited, to the following duties:

a. To keep drugs out of the home and out of the possession of the juvenile, except those drugs duly prescribed by a licensed physician or other authorized medical professional;

b. To keep firearms out of the possession of the juvenile except those used for hunting in accordance with Tribal, local and state law governing juveniles hunting under the supervision of an adult;

c. To know the curfew law of the Little Traverse Bay Bands of Odawa Indians and require the juvenile to observe the curfew laws;

d. To require the juvenile to attend regular school sessions and to prevent the juvenile from being absent from school without parental or school permission;

e. To prevent the juvenile from maliciously or willfully damaging, defacing or destroying real or personal property belonging to others, including that belonging to any governmental entity of the Tribe;

f. To prevent the juvenile from engaging in theft of property or keeping in his or her possession property known to be stolen;

g. To ensure the juvenile adheres to the rules of safety and regulation regarding use of any four or two-wheeled recreational vehicles; and

h. To make reasonable efforts to prevent the juvenile from possession or consumption of alcohol.

B. Notification of Parent and Court. If a juvenile is arrested or detained by Tribal Law Enforcement, Tribal Law Enforcement shall notify the juvenile's parent, guardian, or custodian and the Court as soon as reasonably possible. Tribal Law Enforcement shall maintain a record of their notification efforts.

C. Violation and Penalty.

1. If the juvenile of a parent residing within the jurisdiction of the Tribe commits a delinquent act, the parent shall be guilty of a violation of this Section if:

a. It is proven that any action, word or non-exercise of parental responsibility

by the parent encouraged, caused or allowed to occur the commission of the delinquent act by the juvenile; or

b. It is proven that the parent knew or reasonably should have known that the juvenile was likely to commit a delinquent act, but failed to take timely and appropriate action to prevent the commission of the delinquent act by the juvenile. If at any time within forty-five (45) days following the giving of notice as provided in section C. above, the juvenile to whom said notice related or applied commits a delinquent act as provided in this article, it shall be presumed that the juvenile committed the delinquent act with the knowledge, allowance, permission or sufferance of the parent.

2. Any person in violation of any subsection of the Article may be subject ot a fine assessed by the Court not to exceed five hundred ($500.00) dollars.

D. Recovery of Damages from Parents. Any party aggrieved by the actions of a juvenile, who has not been emancipated, may recover reasonable compensatory damages in Tribal Court against the parents or parent of the juvenile, living with his or her parents or parent, who has maliciously or willfully destroyed real, personal, or mixed property of a party, or who has maliciously or willfully caused bodily harm or injury to a person or an animal.

(Source: WOS 2007-011, January 3, 2008, Section VI)

5.507 JUVENILE PROCEDURE

A. Incident Report. Tribal Law Enforcement may file an Incident Report with the Tribal Prosecutor. The Incident Report shall contain:

1. Name, age, date of birth, address, name of custodial parent or guardian, Tribal affiliation, Tribal ID # if applicable;

2. A concise statement of the facts upon which the allegations are based, including the date, time, and location at which the alleged act(s) occurred; and

3. A list of witnesses known to the person who files the complaint.

B. Juvenile Petition. Proceedings under this Statute shall commence upon the filing of a

juvenile petition by the Tribal Prosecutor on behalf of the Tribe. The juvenile petition shall include:

1. The name, birth date, address, Tribal affiliation and ID# if applicable.

2. The names and addresses of the juvenile's parent(s), guardians, or custodian;

3. Citation to the specific provision(s) of this Statute which gives the Court jurisdiction of the proceedings;

4. Citation to the Tribal criminal statutory provision(s) which the juvenile is alleged to have violated;

5. If the juvenile is in detention or shelter care, the place of detention or shelter care and the time he/she was taken into custody;

6. A statement of the facts which brings the juvenile within the jurisdiction of the Court; and

7. A list of witnesses known to the Tribe upon filing of the juvenile petition.

C. Warrant. The Court may enter an order called a warrant, directing that a juvenile be taken into custody if:

1. The Court finds probable cause to believe that the juvenile committed the delinquent act alleged in the petition and there is probable cause to believe that the juvenile will fail to appear for a hearing on the matter; or

2. The juvenile is not taken into custody she/he is likely to endanger himself/herself or others.

D. Custody. A juvenile may be taken into custody by a law enforcement officer if:

1. The officer has reasonable cause to believe that a delinquent act has been committed and that the juvenile has committed the delinquent act; or

2. A warrant pursuant to Section VII (C) of this Statute has been issued for the juvenile.

E. Law Enforcement Officer's Duties. A law enforcement officer who takes a juvenile into custody, pursuant to Section VII (D) of this Statute, shall proceed as follows:

1. Explain the following rights to any juvenile taken into custody prior to questioning:

a. The juvenile has a right to remain silent;

b. Anything the juvenile says can be used against the juvenile in court; and

c. The juvenile has the right to the presence of his parent or guardian, and/or attorney during questioning.

d. Release the juvenile to the juvenile's parent(s), guardian, or custodian and give such counsel and guidance as may be appropriate, unless shelter care or detention is necessary because:

i. The juvenile is in danger of injury;

ii. Is pending placement; or

iii. The juvenile is under the influence of alcohol or controlled substances; or

iv. The juvenile will not cease illegal conduct and release is likely to result in injury to the juvenile or others.

e. If the juvenile is not released, an officer shall make immediate and recurring efforts to notify the juvenile's parent(s), guardian, or custodian to inform them that the juvenile has been taken into custody.

f. If the juvenile is not released, the juvenile shall be placed in detention or shelter.

F. Detention. A juvenile alleged to be a juvenile offender or juvenile in need of supervision may be detained pending a court hearing in an approved Tribal or State of Michigan detention facility.

1. A juvenile who is sixteen (16) years of age or older may be detained in a jail or other licensed detention facility, used for the detention of adults only if:

a. A facility in Section 1.606 is not available or would not assure adequate supervision of the juvenile;

b. Detention is in a cell separate from adults; and

c. Adequate supervision is provided twenty-four (24) hours a day.

2. A juvenile who is sixteen (16) years of age or older may also be detained in a jail or other licensed detention facility used for the detention of adults if that juvenile is intoxicated, provided that:

a. A juvenile detention facility is not immediately available or is not equipped to hold/supervise the intoxicated youth;

b. Detention is in a cell separate from adults; and

c. The juvenile is released as soon as he or she is sober, unless further detention under Section VII (E) is warranted.

G. Preliminary Hearing.

1. If a juvenile has been released to his/her parent(s), guardian, or custodian, the Court shall conduct a preliminary hearing within ten (10) days of the filing of the juvenile petition to determine whether probable cause exists to believe that the juvenile committed the alleged delinquent act(s).

2. If a juvenile is placed in custody or detention the Court shall conduct a preliminary hearing within seventy-two (72) hours of the placement for the purpose of determining:

a. Whether probable cause exists to believe that the juvenile committed the alleged delinquent act; and

b. Whether continued detention is necessary pending further proceedings.

c. If the juvenile's parent(s), guardian, or custodian is not present at the preliminary hearing, the Court shall make an inquiry into what efforts have been made to notify and to obtain the presence of the parent(s), guardian, or custodian. If it appears that further efforts are likely to produce the appearance of the juvenile's parent(s), guardian, or custodian, the Court shall recess for not more than twenty-four (24) hours and direct the Tribal Prosecutor to make continued efforts to obtain the presence of the juvenile's parent(s), guardian, or custodian, if it does not appear that further efforts are likely to produce the parent(s), guardian, or custodian, or if it appears that the parent(s), guardian, or custodian is/are unable

or unwilling to provide effective support or guidance to the juvenile during the pendency of the juvenile offender or juvenile in need of supervision proceedings, the Court shall appoint an attorney to serve until adjudication and disposition of the petition.

3. The Court shall advise the juvenile as follows:

a. Explain the nature of the proceedings.

b. Read the allegations in the petition unless waived.

c. Advise the juvenile of right to an attorney.

d. Advise the juvenile of the privilege against self-incrimination and that any statement by the juvenile may be used against the juvenile.

e. Advise the juvenile that parents, guardians, or custodians may not be compelled to give testimony against himself or herself or the juvenile.

f. Advise the juvenile that he or his legal representative may introduce evidence, to examine (confront) witnesses against him or her, and be heard on their own behalf.

g. The circumstances that gave rise to the juvenile petition and/or the taking of the juvenile into custody; and

4. If the juvenile admits the allegations in the juvenile petition, the Court shall proceed to the disposition hearing only if the Court finds:

a. The juvenile fully understands his/her rights as set forth in Section V(D) of this Statute and fully understands the potential consequences of his/her admission; and

b. The juvenile voluntarily, knowingly, and intelligently admits to all facts necessary to constitute a basis for Court jurisdiction.

5. If the juvenile denies the allegations in the juvenile petition, the Court shall hear testimony concerning:

a. The circumstances that gave rise to the juvenile petition and/or the taking of the juvenile into custody; and

b. The need for detention.

6. If the Court finds that probable cause exists to believe that the juvenile committed the delinquent act:

a. The juvenile shall be ordered to appear at a trial on a date and at a time set by the Court; and

b. The juvenile shall be released to his/her parent(s), guardian, or custodian unless the alleged act is serious enough to require detention. The Court may order the juvenile to detention, if:

i. There is reasonable cause to believe that the juvenile will run away and/or be unavailable for further proceedings; or

ii. There is reasonable cause to believe that the juvenile will commit a serious act causing damage to persons or property.

7. If a juvenile is released to his parent(s), guardian, or custodian, the Court may impose conditions on the release which may include but not limited to: the posting of a bond; electronic monitoring; house arrest; travel restrictions; mandatory attendance at school; no contact with named individuals; or a juvenile may be prohibited from participating in non-essential Tribal programs or entering designated Tribal property.

8. The Court may release a juvenile to a relative or other responsible adult Tribal member, if the parent(s), guardian, or custodian consents to the release. If the juvenile is fourteen (14) years of age or older, the juvenile and the juvenile's parent(s), guardian, or custodian must consent to the release.

9. If the juvenile pleads guilty to the charges, the Court may take the plea under advisement and refer the juvenile to the Community Justice Coordinator for a pre-disposition investigation report. The Court will proceed with the disposition and place the juvenile on probation. If the juvenile successfully completes the terms and conditions of probation within the prescribed time, the Court may dismiss the matter without entering a judgment of disposition. If the juvenile does not successfully complete probation the Court will then enter a judgment of disposition into the records of the Court.

10. If the Court does not find probable cause to believe that the juvenile committed the alleged delinquent act, the petition shall be dismissed and the juvenile released.

H. Transfer to the Adult Division of Tribal Court.

1. If the juvenile is at least sixteen (16) years of age at the time of the alleged delinquent act, the Prosecutor shall have the option of filing the action as a juvenile offender proceeding or as an adult criminal matter. If the juvenile is between the ages of fourteen (14) and sixteen (16) and is alleged to have committed an act that would have been considered a crime if committed by an adult, the Prosecutor may file a petition requesting the Court to transfer the juvenile to the Adult Division of the Court. No juvenile under the age of fourteen (14) years of age shall be eligible for transferring to Adult Division of the Court.

2. The Court shall conduct a hearing to determine whether jurisdiction of the juvenile should be transferred to the Adult Division of the Court.

3. The Court shall hold a transfer hearing within ten (10) days after the petition to transfer to the adult division is filed.

4. Written notice of the transfer hearing shall be given to the juvenile and the juvenile's parent(s), guardian, legal representative, or custodian at least seventy-two (72) hours prior to the hearing

5. Prior to the hearing, the Tribe's Community Justice Coordinator shall be responsible for an investigation and the preparation of a written report to be submitted to the Court. .

6. The following factors shall be considered in determining whether to transfer jurisdiction of the juvenile to the Adult Division of the Court:

a. The seriousness of the offense and the offense would need to be violent in nature and considered a felonious crime if committed by an adult; and

b. The juvenile's age, mental and physical condition, past record of offenses, and responses to previous Court efforts at rehabilitation.

7. The Court may transfer jurisdiction of the juvenile to the Adult Division of the Court if the Court finds clear and convincing evidence that both of the following circumstances exist:

a. There are no reasonable prospects for rehabilitating the juvenile through resources available to the Court; and

b. The alleged offense is serious and constitutes a substantial danger to the public.

8. When a juvenile is transferred to the Adult Division of the Court, the Court shall issue a written transfer order containing reasons for the order. The transfer order constitutes a final order for purposes of appeal

I. Diversion.

1. The Tribal Prosecutor may choose to divert the juvenile rather than initiate a formal juvenile offender or juvenile in need of supervision proceeding.

2. The Tribal Prosecutor shall hold an informal conference with the juvenile and the juvenile's parent(s), guardian or custodian to discuss diversion in lieu of filing a juvenile petition if:

a. The admitted facts bring the case within the jurisdiction of the Court;

b. Diversion of the matter would be in the best interests of the juvenile and the Tribe; and

c. The juvenile's parent(s), guardian or custodian voluntarily consents to the diversion after they have received an explanation of their rights.

3. This Section does not authorize the Tribal Prosecutor to compel involuntary action of the parties involved.

4. The Tribal Prosecutor and the Community Justice Coordinator shall set forth in writing the diversion agreed to by the parties.

5. Any disposition arranged through the diversion shall be concluded within six (6) months unless an extension is agreed to by all parties.

6. The Community Justice Coordinator shall file monthly progress reports with the Prosecutor. If at any time after thirty (30) days the Tribal Prosecutor concludes that positive results are not being achieved, the Prosecutor may file a juvenile petition pursuant to Section VII (B) of this Statute.

7. No statement made during the diversion process may later be admitted into evidence at a trial or any other proceeding against the juvenile under this Statute.

8. Upon successful completion of the diversion, The Community Justice Coordinator will notify the Tribal Prosecutor and no further action will be required.

J. Trial. The Court shall conduct a bench trial for the purpose of determining whether the Court has jurisdiction over the juvenile. The trial shall be closed to the public. The Court shall hear testimony concerning the circumstances that give rise to the juvenile petition.

K. Burden of Proof

1. If the allegations of the juvenile petition are sustained by proof beyond a reasonable doubt, the Court shall find that the juvenile is a juvenile offender and schedule a disposition hearing.

2. If the allegations of the juvenile petition are sustained by clear and convincing evidence, the Court shall find that the juvenile is a juvenile in need of supervision and schedule a disposition hearing.

3. A finding that the juvenile is a juvenile offender or juvenile in need of supervision shall constitute a final order for purposes of appeal.

L. Trial Continuances. Continuances of a trial may be granted upon:

1. Motion of the juvenile for good cause shown; or

2. Motion of the Tribal Prosecutor that material evidence or witnesses are unavailable, a finding by the Court that the Tribal Prosecutor has exercised due diligence to obtain the evidence or appearance of witnesses, and reasonable grounds exist to believe that the evidence will become available or that the witnesses will appear.

M. Pre-disposition Report.

1. The Community Justice Coordinator shall prepare a written report describing all reasonable and appropriate alternative dispositions. The report shall contain a specific plan for the care of, and assistance to the juvenile, designed to resolve the problems presented in the juvenile petition.

2. The report shall contain a detailed explanation of the necessity for the proposed disposition and its benefits to the juvenile.

3. Preference shall be given to the disposition alternatives that are listed in Section VII (O). The alternative least restrictive of the juvenile's freedom, consistent with the

interests of the Tribe, shall be selected.

4. If the report recommends placement of the juvenile somewhere other than with the juvenile's parent(s), guardian, or custodian, it shall state the specific reasons underlying its placement recommendation.

5. The Community Justice Coordinator shall review the pre-disposition report with the Court, the juvenile's legal representative, and the Tribal Prosecutor prior to the disposition hearing.

N. Disposition Hearing.

1. A disposition hearing shall take place not more than twenty-eight (28) days after the trial or after the admission of responsibility at the preliminary hearing

2. The Court shall take testimony and receive evidence concerning proper disposition at the hearing.

3. The Court shall consider the pre-disposition report submitted by the Tribe's Community Justice Coordinator. Prior to the hearing, the affected parties shall be given an opportunity to review all reports and supporting documentation. During the hearing, the parties shall have the opportunity to controvert the factual contents and the conclusions of any reports. The Court shall also consider the alternative predisposition report prepared by the juvenile or the juvenile's legal representative.

4. The judgment of disposition order shall constitute a final order for purposes of appeal.

O. Disposition Alternatives. The dispositional focus of a youth depends upon whether the youth is found to be a juvenile offender as defined in Section III (L) or a juvenile in need of supervision as defined in Section III (M) in all cases the Court shall look to methods of rehabilitation of both the juvenile and the family unit. The dispositional focus of a youth found to be a juvenile offender is the reformation and rehabilitation of the offender and the family as well as the reintegration of the juvenile offender into the community. The dispositional focus of a youth deemed to be a juvenile in need of supervision is to pursue the best interest of the youth while strengthening family and community solutions to the youth misconduct. If a juvenile has been found to be a juvenile offender or juvenile in need of supervision, the Court may make the following disposition for any term until the juvenile reaches the age of nineteen (19) and shall

include rehabilitation services for the youth and his or her family, i.e. mental health, substance abuse, educational services, etc.:

1. Place the juvenile on probation subject to conditions set by the Court;

2. Place the juvenile in a detention and/or a treatment facility with an agency designated by the Court;

3. Order the juvenile to perform community service work at the direction of the Community Justice Coordinator;

4. Order the juvenile to pay restitution, court fines and court costs including costs related to detention, or to provide restorative services to the injured party or parties. The Court may access the juvenile's per capita trust or distributions, if otherwise allowed by the Tribe's Revenue Allocation Plan, to provide restitution upon the motion of the Tribal Prosecutor or an aggrieved party based upon proper proofs offered at an evidentiary hearing; or

5. Order any other measure the Court deems necessary and proper to correct the behavior of the juvenile offender or juvenile in need of supervision to insure the safety of the community.

P. Modification of Disposition Order. A disposition order of the Court may be modified, for good cause, upon a showing of a change of circumstances. The Court may modify an order of disposition at any time, upon motion of the following:

1. The juvenile;

2. The juvenile's parent(s), guardian, or custodian;

3. The Tribal Prosecutor; or

4. The Tribal Community Justice Coordinator.

Q. Probation Supervision.

1. Probation/Diversion Responsibility. The Community Justice Office is supervised by the Court. The Community Justice Coordinator will be responsible for supervising probationers and juveniles released on pre-dispositional release. Terms of release or probation will be set by the Court upon recommendation of the Community Justice

Coordinator.

2. Power to Take Into Immediate Custody for Violation of Pre-Dispositional Release. The Community Justice Coordinator may, upon direct knowledge or receipt of reliable information, take into immediate custody, a juvenile who has violated terms of pre-dispositional release.

3. Power to Take Into Immediate Custody for Probation Violation. The Community Justice Coordinator may, upon direct knowledge or reliable knowledge, take a probationer into immediate custody for violation of the terms of probation. The Community Justice Coordinator must file a motion for a Show Cause Hearing, listing the reasons for violation and the basis for violation.

4. Terms Subject to Modification. The Community Justice Coordinator or the Prosecutor may motion the Court to alter any term of probation at the discretion of the Community Justice Coordinator.

5. Facility Visits Discretionary. The Community Justice Coordinator may visit any juvenile who is in jail or in a treatment facility.

(Source: WOS 2007-011, January 3, 2008, Section VII)

5.508 SAVINGS CLAUSE

In the event that any section, subsection or phrase, this Statute 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 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.

(Source: WOS 2007-011, January 3, 2008, Section VIII)

5.509 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2007-011, January 3, 2008, Section IX)

TITLE VI. GOVERNMENT AND ADMINISTRATION

Chapter 1. Legislative Procedures, Odawa Register

6.101 PURPOSE

This Statute establishes uniform terminology and procedures for the consideration, enactment, certification, naming, numbering and filing of legislation, and authorizes the Executive power of veto. This Statute repeals and replaces Waganakising Odawak Statute 2002-01 of February 17, 2002.

(Source: WOS 2005-10, August 21, 2005, Section I)

6.102 DEFINITIONS

A. "**Tribal Council**" or "**Council**" means the elected body of the Little Traverse Bay Bands of Odawa Indians to carry out legislative powers under Article VII of the Constitution.

B. "**Legislative Agenda**" means a list kept by the Tribal Council of all proposed legislation.

C. "**Election Cycle**" means the two (2) year period between elections as per Constitution Article XII (A).

D. "**Executive**" means the Executive Branch of government under Article VIII of the Constitution the power of which is vested in the Tribal Chairperson and the Vice-Chairperson.

(Source: WOS 2005-10, August 21, 2005, Section II)

6.103 TERMINOLOGY

A. Terminology and Numbering. Legislative enactments of the Little Traverse Bay Bands of Odawa Indians shall be titled "Waganakising Odawak Statute" followed by a unique number. Statutes shall be identified by a seven (7) digit number. The first four (4) digits will be the year of the enactment. The last three (3) digits will specify the chronological order in which statutes are enacted in a given year. For example, the first statute passed in 1996 will be Waganakising Odawak Statute 1996001.

B. Retroactive Naming and Numbering. All legislative enactments of the Tribal Council of the Little Traverse Bay Bands of Odawa Indians since adoption of the Tribal Constitution and By-laws on March 11, 1989 are hereby named and numbered according to the system set out in Section III(A) [WOTC 6.103].

(Source: WOS 2005-10, August 21, 2005, Section III)

6.104 INTRODUCTION AND PASSAGE OF STATUTES

A. Introduction by Tribal Council.

1. Any member of the Tribal Council at any regular Council meeting may move to place a proposed statute, which may involve a revision of an existing statute or a new draft, on the Tribe's legislative agenda. Prior to formally placing the draft statute on the legislative agenda, Tribal Council may develop such draft at regular or special Council meetings and work sessions.

2. A proposed statute may also be prepared and presented by any Tribal member by providing their typed or computer generated proposed statute in a Tribal Council approved format to the Tribal Council. The Tribal Council shall designate one of its members or a staff person to enter the name of the submitter, date of submission, and a unique number, at the top of the member's proposal. Each Tribal Council member will receive a copy of the draft. Consideration to place the proposal on the legislative agenda will occur within sixty days of submission. After consideration, Council may at its discretion adopt a motion placing the proposal on the legislative agenda. If such motion

is not adopted within sixty days, the proposal will not be placed on the legislative agenda. Tribal Council shall maintain a list of submissions indicating the date considered, and action taken.

3. The sponsor and co-sponsor(s), if any, shall be identified on the record upon introduction of legislation.

B. Notice to Tribal Members. When a proposed statute is placed on the legislative agenda under subsection A above, Tribal Council shall notify members by posting the proposed statute in the Odawa Register, in Tribal governmental office buildings, and other readily available methods of publication, such as a tribal newsletter. The Tribal Council will consider passage of the proposed statute no sooner than the next regularly scheduled meeting at least twenty five (25) days from its introduction. Written comments may be submitted to the Tribal Council at any time prior to passage. Verbal comments will be heard during any public comment period prior to passage of the legislation.

C. Passage. When the Council considers a proposed statute that has been placed on the legislative agenda, the Council may vote on the legislation as presented or hold one or more legislative mark-up sessions. Upon conclusion of discussion and/or mark-up session(s), the Legislative Leader shall request a motion and support to pass the statute as marked-up or as originally presented if no changes were made. If such motion is made and supported, the Legislative Leader shall call for a vote. An affirmative vote of a majority of a quorum of the Council is required to pass a statute except the unanimous vote of emergency legislation as provided for in section IV(E) [WOTC 6.104]of this statute.

D. End of Election Cycle. Any proposed statute on the legislative agenda of a sitting Tribal Council that has not been passed during an Election Cycle in which the proposed statute was submitted shall be removed from the agenda upon the swearing in of newly elected Council members. Once removed, these proposed statutes will be considered dead, meaning they may not be considered for passage unless resubmitted to Tribal Council according to the legislative process set out in this Statute. Provided, the first Tribal Council sworn in under the Constitution approved by the membership on February 1, 2005 will have a sixty day period to pass previously introduced legislation.

E. Emergency Legislative Action. In the event that immediate legislative action is absolutely necessary to preserve or promote the rights or resources of the Tribe or its members, a statute may be passed at the same meeting that it is introduced and placed on the legislative agenda, or at a special meeting called for that purpose. However, such emergency passage shall require a unanimous vote of all Tribal Council members present at such meeting where no more than one sitting Tribal Council member is absent.

(Source: WOS 2005-10, August 21, 2005, Section IV)

6.105 CERTIFICATION

Proof of passage of a Tribal Statute 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.

(Source: WOS 2005-10, August 21, 2005, Section V)

6.106 SUBMISSION TO EXECUTIVE

Upon passage and certification of statutes by the Tribal Council, the Tribal Council Secretary or designee shall send the certified original to the Executive for signature. Statutes 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 statute 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.

(Source: WOS 2005-10, August 21, 2005, Section VI)

6.107 INITIATIVE AND REFERENDUM

The process for initiative and referendum is set out in Article XIV of the Constitution.

(Source: WOS 2005-10, August 21, 2005, Section VII)

6.108 COMPILATION

A. All enacted statutes of the Little Traverse Bay Bands of Odawa Indians shall be compiled in chronological order in a book entitled "Waganakising Odawak Constitution and Statutes" which shall consist of as many volumes as necessary.

B. The Tribe shall maintain at least four identical copies of "Waganakising Odawak Constitution and Statutes." One shall be kept in the Tribal Council office containing the original signed documents. One copy shall be kept in the Tribal Executive office; one copy shall be kept at the home or office of the Tribal Secretary, and one copy shall be kept at the office of the Tribal attorney.

C. Statutes that are amended or repealed by subsequent legislation shall not be removed from "Waganakising Odawak Constitution and Statutes." The Tribal Council shall direct the development of a separate Tribal Code to keep tribal laws organized and current.

(Source: WOS 2005-10, August 21, 2005, Section VIIi)

6.109 ODAWA REGISTER

A. **The Odawa Register is hereby created**. The Odawa Register is a publication of official election, legislative, executive and judicial notices including but not limited to:

1. pending legislation and legislative history;

2. draft Tribal Council meeting minutes and approved minutes;

3. posting notices for appointed positions in Tribal government;

4. approved intergovernmental agreements and accords;

5. approved minutes from Tribal Commissions and Boards, except for minutes of closed sessions as authorized by the LTBB Constitution or statutes;

6. the compiled LTBB laws in a Tribal Code, which shall be updated at least yearly; and

7. other notices or documents deemed to be appropriate by any of the branches of tribal government.

B. The Odawa Register shall be located on the LTBB official website if such a site exists, and if it does not exist, it shall be located on a website dedicated to the Odawa Register.

C. Printed copies of items in the Odawa Register shall be available at the Tribal Administration offices an shall be provided to Tribal members upon their submitting a written request for specific documents to the Tribal Chairman's office.

D. The Tribal Council may authorize the publication of the full or abbreviated minutes of its meetings in a Tribal publication such as a newsletter.

(Source: WOS 2005-10, August 21, 2005, second Section VII [formatting error in original])

6.110 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2005-10, August 21, 2005, Section IX)

6.111 EFFECTIVE DATE

This Statute shall take effect upon the swearing in of the first Tribal Council under the Constitution [September 11, 2005] approved by the membership on February 1, 2005.

(Source: WOS 2005-10, August 21, 2005, Section X)

Chapter 2. Administrative Procedures Act

6.201 PURPOSE

This Administrative Procedures Statute is hereby enacted to establish a standard set of requirements for Executive Branch and Legislative Branch for Regulations; Administrative and Departmental Procedures; Executive Mandates and Directives; Legislative Directives and Resolutions and Tribal Councilor Special Tributes and Declarations. This statute shall repeal and replace the Administrative Procedures Statute 2005-015 and WOS 2006-28.

(Source: WOS 2008-001, January 25, 2008 Section I)

6.202 DEFINITIONS

A. "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.

B. "Departmental Procedures" shall mean procedures not required by statute or regulation.

C. "Constitution" or "Tribal Constitution" means the Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted on February 1, 2005, and any amendments thereto.

D. "Executive Directive" shall mean a directive issued by the Tribal Chairperson that establishes basic internal rules of procedure, or guidelines for Executive departments and employees and does not impact Tribal Citizens or entities out-side of the Executive Branch.

E. "Legislative Directive" shall mean a directive issued by the Tribal Council that establishes basic internal rules of procedure, or guidelines for Tribal Council or Legislative employees and does not impact Tribal Citizens or entities out-side of the Legislative Branch.

F. "Tribal Regulations" shall mean regulations that implement a statute

G. "Tribal Code of Regulations**"** shall mean the codification of the approved Tribal Regulations.

H. The "Tribe" shall mean the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-001, January 25, 2008 Section II)

6.203 TRIBAL REGULATION

A. Regulations required by law shall be called Tribal Regulations.

B. The Tribal Executive shall develop Tribal Regulations to implement statutes that require regulations.

C. Tribal Regulations shall be developed within 120 days of enactment of a law.

D. Tribal Regulations shall be forwarded to the Tribal Council for approval.

E. The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Tribal Regulations have not been developed or approved.

(Source: WOS 2008-001, January 25, 2008 Section III)

6.204 REQUIREMENTS OF TRIBAL REGULATIONS

A. The Executive may develop Regulations for such Statutes that the Executive deems necessary for the implementation of the intent of the Statute and shall forward such Regulations to the Tribal Council in accordance with this Statute. Such Statutes that mandate regulations, the Executive shall draft and submit Regulations to the Tribal Council in accordance with this Statute.

B. Tribal Regulations shall reflect the intent of the law. Tribal Regulations shall be written in a manner that protects the best interests of the Tribal Citizens.

C. Tribal Citizens shall be provided an opportunity to comment on proposed regulations prior to approval by the Tribal Council.

D. Tribal Regulations shall clearly identify for whom they are intended to apply.

E. Tribal Regulations shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

F. Tribal Regulations shall be forwarded to Tribal Council for approval, in accordance with the Tribal Constitution, Article VII (D) (2).

1. Tribal Regulations shall be considered approved within one month of submission, provided Tribal Council shall have the authority to revoke part or all of the Tribal Regulations at any time after submission.

2. Rejections shall be sent to the Executive with an explanation of why they were rejected.

3. Rejections once rewritten shall be resubmitted to Tribal Council.

G. The Executive may implement interim regulations to carry out the intent of the law prior to the approval by Tribal Council.

H. Violations of Tribal Regulations shall be considered civil infractions and may carry penalties, fines or incarceration provided that any part of Tribal Regulation carrying such penalties shall require the express approval of Tribal Council.
(Source: WOS 2008-001, January 25, 2008 Section IV)

6.205 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 enactment.

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 Citizens are carried out even if Administrative Procedures have not been developed or approved.

(Source: WOS 2008-001, January 25, 2008 Section V)

6.206 REQUIREMENTS OF ADMINISTRATIVE PROCEDURES

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

B. Administrative Procedures shall clearly identify to whom 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:

1. 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.
2. Rejections shall be sent to the Executive with an explanation of why they were rejected.
3. Rejections once rewritten shall be resubmitted to Tribal Council.

(Source: WOS 2008-001, January 25, 2008 Section VI)

6.207 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. Departmental Procedures shall be written in a manner that protects the best interests of the Tribal Citizenship.

D. Departmental Procedures shall clearly identify to whom they are intended to apply in whole or in part.

E. Departmental Procedures shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

(Source: WOS 2008-001, January 25, 2008 Section VII)

6.208 EXECUTIVE MANDATES

A. The Tribal Executive is hereby mandated to publish all documents authorized by this statute on the Tribe's website. Additionally, any documents that required Tribal Council approval shall be posted on the Tribe's web-site for seven (7) working days to provide a method for Tribal Citizens to submit comments prior to approval by Tribal Council and the same shall be published within seven (7) working days after approval on the Tribe's web-site.

B. The Tribal Executive is hereby mandated to develop a standardized numbering system for Tribal Regulations to be adopted into a Tribal Code of Regulations, Administrative Procedures, and Departmental Procedures and establish a method of periodic review of approved regulations and procedures.

C. Tribal Regulations and Administrative Procedures may be presented for approval at the same time as their authorizing Statute.

D. The Tribal Executive Branch is hereby mandated to enforce all approved Tribal Regulations and to implement all required Administrative Procedures.

(Source: WOS 2008-001, January 25, 2008 Section VIII)

6.209 EXECUTIVE DIRECTIVES AUTHORIZED

The Executive is hereby authorized to use Executive Directives and other such instruments deemed necessary for operation of the Executive provided that each instrument has an approved policy delineating its use. Directives and other such instruments under this section do not carry the force of law and must be published on the Tribe's web-site.

(Source: WOS 2008-001, January 25, 2008 Section IX)

6.210 TRIBAL COUNCIL DIRECTIVES AUTHORIZED

The Tribal Council is hereby authorized to use Tribal Council 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 Directives and other such instruments do not carry the force of law and must be published on the Tribe's web-site.

(Source: WOS 2008-001, January 25, 2008 Section X)

6.211 TRIBAL RESOLUTIONS

A. In accordance with the Tribal Constitution, Article VII (D)(1), Resolutions carry the force of law and shall be sent to the Executive for signature.

B. **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.

C. 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.

(Source: WOS 2008-001, January 25, 2008 Section XI)

6.212 TRIBAL COUNCILOR TRIBUTES AND DECLARATIONS

A. A Special Tribute is a document that acknowledges or recognizes a person(s) or organization with gratitude, respect or admiration for an action or accomplishment. One or more Tribal Councilors may sign onto a Special Tribute as individual Councilors. A Special Tribute shall not obligate or commit the Tribal Council in any manner. Special Tributes do not require formal action by the Tribal Council.

B. A Declaration is a formal written public statement in support or opposition of an issue or matter. One or more Tribal Councilors may sign onto a Declaration as individual Councilors. A Declaration shall not obligate or commit the Tribal Council in any manner. Declarations do not require formal action by the Tribal Council.

C. Copies of all Special Tributes and Declarations shall be submitted to the Legislative Office for record keeping purposes.

(Source: WOS 2008-001, January 25, 2008 Section XII)

6.213 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.

(Source: WOS 2008-001, January 25, 2008 Section XIII)

6.214 EFFECTIVE DATE

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

(Source: WOS 2008-001, January 25, 2008 Section XIV)

Chapter 3. Budget Formulation Process

6.301 PURPOSE AND SHORT TITLE

The purpose of this Statute is to mandate procedures and deadlines for the Tribal Council to follow in the formulation of the annual Tribal governmental budget. It may be cited as the "Budget Act." This Statute repeals and replaces Waganakising Odawak Statute 2005-11 dated August 21, 2005 and amends 2007-003.

(Source: WOS 2007-004, October 7, 2007, Section I)

6.302 FISCAL YEAR

The fiscal year shall be from January 1 to December 31.

(Source: WOS 2007-004, October 7, 2007, Section II)

6.303 STEPS IN PREPARATION OF ANNUAL BUDGET

A. Beginning with preparation for fiscal year 2010, by September 15 of each year, all Governmental Branches, units, departments, agencies and programs that provide direct services to our Tribal Citizens are required to adopt performance measures that include quantity and quality measurements, performance measures, goals and data collection that can be used to determine the extent to which they are progressing towards their goals and the quantity and quality of services provided to the Tribal Citizens. In order for the Tribal Council to adopt a Governmental Priority Funding Allocation, this information must be submitted to Tribal Council prior to any allocation of funding to the Branch, unit, department, agency or program for each fiscal year.

B. In order for the Tribal Council to adopt the Governmental Priority Funding Allocation and to determine the efficiency of each Governmental Branch, unit, department, agency, or program beginning with preparation for fiscal year 2010, by September 15 of each year, all Governmental Branches, units, departments, agencies and programs that provide non-direct services, a Job Analysis report of relevant staff positions, all duties performed, time spent performing each job function and work load must be completed and submitted to Tribal Council prior to any allocation of funding to the branch, unit, department, agency or program for each fiscal year.

C. By October 15 of each year the Tribal Council shall adopt the Governmental Priority Funding Allocation which shall set forth the allocation of funds based upon Performance Measures and Job Analysis Reports among the five divisions, (Executive, Legislative, Judicial, Prosecutor, and Election Board), for the fiscal period budgets that will begin 14 ½ months from this date. Prior to approval of this allocation the Tribal Council may hold public hearings.

D. By December 15 all budgets for the fiscal year specified in C above, from all divisions are to be submitted to the Tribal Council.

E. Between December 15 and May 1st the Tribal Council may schedule work sessions and public hearing(s) to reconcile the budget requests.

F. Tribal Citizenship Input. The Tribal Council or its designee shall hold a public hearing on the budget. Tribal Citizens shall be given reasonable notice, such as an announcement in the newsletter of the date, time and location of such hearing. Copies of the draft budget and

summary totals of each departmental request will be provided to the Tribal Citizens upon request.

G. By May 1st the Tribal Council shall approve the annual budget.

(Source: WOS 2007-004, October 7, 2007, Section III)

6.304 AVAILABILITY AND SURPLUS FUNDS

A. Funding Availability. Programs and budgeted items shall be subject to funding availability. If actual revenues during a fiscal period fall short of projected revenues the Tribal Council shall take necessary actions to reduce budgeted expenditures of all divisions in accordance with budgetary priorities.

B. Surplus Funds. Surplus funds remaining at the end of the fiscal year will be carried forward for reallocation by the Tribal Council in the next fiscal year as funding source allows. Such reallocation may include an amount to be placed in long term investment funds.

(Source: WOS 2007-004, October 7, 2007, Section IV)

6.305 BUDGETARY REVIEW

The Tribal Council may review the budget monthly and reallocate funds as needed. The Tribal Council may make emergency appropriations or transfer funds between the various branches of government as needed and to borrow money to cover such appropriations or reallocations if necessary.

(Source: WOS 2007-004, October 7, 2007, Section V)

6.306 BUDGET MODIFICATIONS

A. All budget submissions and modifications will be in the form and format required by the governmental accounting office.

B. A material modification in the scope of a program or an increase in its budget that requires an overall increase in a division's budget must be presented to the Tribal Council for approval and or a new appropriation.

(Source: WOS 2007-004, October 7, 2007, Section VI)

6.307 CHECK SIGNERS

The Tribal Chair shall have the authority to issue Executive Resolutions authorizing individuals to sign checks and defining methods and limitations for mechanical signatures. These resolutions do not need approval of Tribal Council. Copies of these resolutions shall be forwarded to the Treasurer.

(Source: WOS 2007-004, October 7, 2007, Section VII)

6.308 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2007-004, October 7, 2007, Section VIII)

6.309 EFFECTIVE DATE

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

(Source: WOS 2007-004, October 7, 2007, Section IX)

Chapter 4. Commissions, Boards, and Committees

6.401 SHORT TITLE

This Statute shall be entitled "The Commissions, Boards and Committees Statute." It is repealing and replacing Waganakising Odawak Statute 2002-05. This statute shall comply with all provisions of the Little Traverse Bay Bands of Odawa Indians Constitution.

(Source: WOS 2006-007, May 21, 2006, Section I(A))

6.402 DEFINITIONS

As used in this Statute:

A. "**LTBB**" The Little Traverse Bay Bands of Odawa Indians.

B. "**Commissions**" Commissions, boards and committees which are created by statute, except as otherwise specified in this Statute.

C. "**Constitutional Commission**" A tribal commission mandated in the LTBB Constitution, which shall officially be known as a board.

D. "**Program Commission**" A Tribal commission mandated by various federal or state grants or contracts.

E. "**Ad Hoc Committee**" Committees created by Tribal Council for a special, singular purpose that dissolve upon completion of its assigned task or purpose.

F. "**Staff Members**" LTBB Employees.

(Source: WOS 2006-007, May 21, 2006, Section I(B))

6.403 PURPOSE

The purpose of this Statute is to provide uniform provisions that apply to all Tribal

Commissions. Except as specifically stated, this Statute shall not be construed to apply to the Tribal Council or Election Board. This statute shall not override specific statutory provisions in Commission statutes unless explicitly noted.

A. **Tribal Council**. Commissions may be created by the Tribal Council pursuant to article VII, § D(16) of the Constitution.

B. **Tribal Chairperson**. As per article VIII, § C(3), (5) of the Constitution, Commissions shall be overseen by the Tribal Chairperson.

(Source: WOS 2006-007, May 21, 2006, Section I(C))

6.404 CREATION OF TRIBAL COMMISSIONS

A. All Commissions shall be created by Tribal Council action:

1. Commissions shall be created or established by statute.

2. Program commissions shall be created or established by Tribal Resolution.

3. Ad Hoc committees shall be created or established by Tribal Resolution.

(Source: WOS 2006-007, May 21, 2006, Section II)

6.405 DURATION OF TRIBAL COMMISSIONS

A. Constitutional commissions shall be permanent in nature.

B. Commissions shall exist for the time specified by statute, or if no time is specified a Commission shall exist until extinguished by future statute.

C. Program commissions shall terminate upon expiration of the underlying program's grant or contract.

D. Ad Hoc committees shall terminate upon completion of their specific task, or a time certain, as detailed in the Tribal Resolution creating the Ad Hoc committee.

(Source: WOS 2006-007, May 21, 2006, Section III)

6.406 AUTHORITY OF COMMISSIONS

A. Commissions are authorized to:

1. Gather and/or disseminate information;

2. Carry out the responsibilities with which a particular commission is charged;

3. Issue, suspend or revoke licenses statutorily delegated to be under their authority; and

4. Make recommendations to the Tribal Chairperson which shall then report the Commission's recommendations to the Tribal Council.

(Source: WOS 2006-007, May 21, 2006, Section IV)

6.407 MEETINGS OF COMMISSIONS

A. Constitutional commissions shall meet according to the terms of the Constitution.

B. Commissions shall meet no more than twice (2) monthly, unless otherwise authorized by the statute creating the Commission.

C. Program Commissions shall meet as required by the program to assist the staff in carrying out its program mandate.

D. Ad Hoc committees shall meet as needed to achieve the goals and objectives as outlined in the Tribal Resolution creating the Ad Hoc committee.

(Source: WOS 2006-007, May 21, 2006, Section V)

6.408 PHONE POLLS

In situations where vital interests of the Tribe require immediate emergency action prior to a regular or special meeting, such action can be taken by phone poll or teleconference call for the limited purpose of addressing a matter for which the Tribe will suffer severe damage. In such situations, the Commission Secretary or designee must certify that more than one attempt was made to contact each Commission member by any practical means including telephone, fax, e-mail or in person. The action taken must be ratified at the next regular meeting of the Commission, and the minutes must state the reason such emergency action was necessary.

(Source: WOS 2006-007, May 21, 2006, Section VI)

6.409 COMPOSITION OF TRIBAL COMMISSIONS

A. Constitutional Commissions, Committees and Boards shall be composed of three (3) or not more than five (5) members unless the Constitution or the statute creating the Commission provide otherwise. All current Commission members shall complete their terms unless they voluntarily resign earlier.

1. Commission members shall be appointed by the Tribal Council to a prescribed term or to fill the remaining time of a vacant prescribed term.

2. The Executive may solicit citizens to serve on Commissions.

3. All appointed Commission members shall take an oath of office administered by the Tribal Court.

B. Program Commissions shall be of a size prescribed in the program's grant or contract.

1. Members shall be appointed by the Tribal Council.

C. Ad Hoc committees shall be of a size that is needed to complete the purpose for which it

was created.

D. It shall be the responsibility of all Commission chairpersons to keep a record of Commission members' terms: date appointed, time to recruit for vacancy, date appointment ends.

E. In making Commission appointments after the effective date of this Statute, commissioners shall serve on no more than two Commissions simultaneously.

(Source: WOS 2006-007, May 21, 2006, Section VII)

6.410 RULES OF PROCEDURES, NOTICE

A. Commissions shall adopt rules of procedures for the conduct of their business subject to the approval of the Tribal Chairperson unless such rules are contained within the statute or resolution that created the commission.

B. Notice requirements for commission meetings shall comport with "notification of meeting" requirements of LTBB then in place.

C. Commissions shall submit at a minimum a quarterly report to the Tribal Chairperson.

D. Stipends cannot be paid to Commission members if that body has failed to send draft minutes with the stipend request from the same meeting, to the Executive Department as well as posting any meeting minutes on the Tribal website and in government buildings. Matters of confidentiality as defined by Tribal or Federal law, such as confidential personnel or legal matters must be removed from the posted minutes.

E. Unless otherwise specified in a Commission's statute, a quorum shall consist of a simple majority of the number of commissioners notwithstanding vacancies. A meeting may not be called to order without a quorum present and no official business may be conducted absent a quorum.

(Source: WOS 2006-007, May 21, 2006, Section VIII)

6.411 RECOMMENDATIONS, PROPOSED LEGISLATION

A. Proposed legislation shall originate with or be referred to the appropriate Commission which shall discuss the proposed legislation in an open meeting.

B. The Commission shall then make written recommendations to the Executive which shall report the recommendations to the Tribal Council. Any Commission member who disagrees with the recommendations may make a written minority report outlining their opposition to the Commission's recommendations to the Tribal Chairperson which shall report the minority report to the Tribal Council.

(Source: WOS 2006-007, May 21, 2006, Section IX)

6.412 OPEN MEETINGS, COMMISSION RECORDS

A. Commission meetings shall be open to citizens except in cases involving Indian Child Welfare matters, matters of confidentiality as defined by Tribal statute, personnel matters, and legal matters.

B. Commission records shall be open to citizens except in cases involving Indian Child Welfare matters, matters of confidentiality as defined by Tribal statute, personnel matters, and legal matters.

(Source: WOS 2006-007, May 21, 2006, Section X)

6.413 APPLICATION OF INDIAN CIVIL RIGHTS ACT OF 1968

Tribal commissions shall comply with the provisions of the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-1303.

(Source: WOS 2006-007, May 21, 2006, Section XI)

6.414 COMPENSATIONS, STIPENDS

A. Commission members who attend any conference, training, meeting or hearing directly related to their duties or attend any event where their attendance is required may be compensated for attendance so long as there are funds available in the Commission's budget.

B. Commission members shall receive a stipend for attendance at commission meetings subject to the availability of funds.

C. Ad Hoc Committee members may receive stipends if authorized by the Tribal Resolution creating the Ad Hoc Committee.

D. Any Commission member who attends a properly noticed meeting shall be eligible for a stipend, mileage, and expenses, even if no official action can be taken due to lack of a quorum.

(Source: WOS 2006-007, May 21, 2006, Section XII)

6.415 STAFF PARTICIPATION

Staff members may serve on Commissions and be compensated by stipend if that commission is not directly related to their employment, does not interfere with their work, and does not meet during scheduled work hours. If a Commission meets during scheduled working hours and the staff member wishes to attend, the staff member must utilize PTO (personal time off), or flextime upon prior approval of the individual's supervisor.

(Source: WOS 2006-007, May 21, 2006, Section XIII)

6.416 TRIBAL PREFERENCE

In appointing Commission members only tribal citizens shall be appointed to Commissions and Constitutional Commissions.

(Source: WOS 2006-007, May 21, 2006, Section XIV)

6.417 NEPOTISM

This Section XIV repeals and replaces Section III of Waganakising Odawak Statute 2000-10 of July 22, 2001.

A. Two or more members of the same immediate family shall not serve on the same Commission at the same time. Further, when a Commission is formed to address issues that pertain to a specific Executive department, a person shall not serve as Commission Chairperson if the department director, assistant director, co-director, Tribal Chairperson or Vice-Chairperson is an immediate family member. For purposes of this section immediate family means husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, son-in-law, daughter-in-law, sister, step-sister, sister-in-law, child, step-child, Grandfather, Grandmother.

B. No Commission member may participate in making any decision that involves a personal or financial interest of the Commissioner or a member of his or her immediate family unless such interest is held in common with the Tribe and its citizens.

(Source: WOS 2006-007, May 21, 2006, Section XV)

6.418 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2006-007, May 21, 2006, Section XVI)

6.419 EFFECTIVE DATE

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

(Source: WOS 2006-007, May 21, 2006, Section XVII)

Chapter 5. Removal of Commissioners and Nepotism

6.501 SHORT TITLE AND PURPOSE

A. **Short Title**. This Statute may be cited as the "Commissioner Removal and Nepotism Act.

B. **Purpose**. This Act sets out standard procedures for the removal of members of commissions of the Tribe, and rules regarding nepotism. This Act shall apply to all commissions of the Tribe unless otherwise specified in a specific commission statute. This Statute repeals and replaces the Removal of Commissioners and Nepotism Statute enacted on April 20, 1997 (Waganakising Odawak Statute 1997005).

(Source: WOS 2001-10, July 22, 2001, Section I)

6.502 REMOVAL OF COMMISSIONERS

A. **Hearing Board**. Hearings held under this section shall be before a Hearing Board consisting of one member of the Tribal Judiciary to be selected by the Judiciary itself, and two Tribal members at large to be selected by the Tribal Judiciary. All members of the Hearing Board shall be subject to the same rules regarding recusal as would a judge hearing a Tribal Court case.

B. **Removal or Discipline**. Members of a commission appointed by the Tribal Council shall not be removed during their terms of office except for misconduct, neglect of duties, or defying legally issued directives of the Tribal Council. The procedure for removal shall be as follows:

1. 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 member or place the item on the agenda of the next regularly scheduled Council meeting in response to any one of the following:

a. The Tribal Council by majority vote determines that there is cause to suspect that a member may be subject to removal for one or more of the reasons specified in this section;

b. The Tribal Council receives a petition signed by at least fifty (50) members of the Little Traverse Bay Bands of Odawa Indians alleging cause to suspect that a member may be subject to removal for one or more of the reasons specified in this section;

c. The Tribal Council receives a petition signed by a majority of the commissioners sitting on the commission at issue alleging cause to suspect that a member may be subject to removal for one or more of the reasons specified in this section.

2. In the event that the Tribal Council receives a petition under this section, or determines itself that there may be grounds for removal the Council shall:

a. Submit the petition to the Election Board for verification that the petition contains a sufficient number of valid signatures;

b. If the Election Board finds the petition to contain a sufficient number of valid signatures, the Tribal Council shall submit the petition to the Hearing Board to determine if the charges, if proven true, would constitute grounds for removal;

c. In the event that Council itself has determined that there is cause to suspect that a member may be subject to removal, Council shall submit its reasons in writing to the Hearing Board to determine if the charges, if proven true, would constitute grounds for removal.

d. If the Hearing Board determines that the charges, if proven true, would constitute grounds for removal of a commissioner from his or her appointed position, the Hearing Board shall set a date for hearing the charges on the petition and shall provide notice to the member whose removal is being sought.

3. Notice to the member 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 a statement of the Tribal Council or the petition seeking removal, and shall attach a copy of the rules to be followed during the hearing. Upon good cause shown, the Hearing Board may postpone the hearing to a later date. Notice shall also advise the recipient of his/her right to bring witnesses or documents to the hearing that the recipient deems necessary in order to attempt to defend against the charges contained in the petition, and the right of the commissioner to have one attorney or Tribal member advocate present to represent and assist the commissioner at the hearing.

4. The Hearing Board shall also provide copies of the notice to the other members of the commission from which removal is sought, to the member of the Little Traverse Bay Bands of Odawa Indians who presented the petition, and to the members of the Tribal Council advising each of them of the opportunity to appear and to present evidence, either in support of the charges against the member of the commissioner whose removal is sought or in support of the defense of such member.

5. The Hearing Board 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 Hearing Board deems appropriate for summary statements and arguments. At any time, the Hearing Board may recess the hearing until a later time certain. At the request of the member whose removal is at issue, the hearing may be held in closed session. The Hearing Board also may elect to receive in closed session any evidence public disclosure of which might compromise the proprietary interests of the Tribe or any on-going law-enforcement investigation.

6. Upon the conclusion of the presentation of evidence and of summary statements and arguments, the Hearing Board shall deliberate in closed session and shall either dismiss the petition, remove the member charged in the petition from the commission, or take such other disciplinary action as it deems appropriate short of removal, upon such findings of fact as may be appropriate. The decision of the Hearing Board shall be final,

and no appeal to any other tribunal shall be available.

7. Upon conclusion of the hearing, any information disclosing possible criminal activity shall be promptly reported to Tribal Law Enforcement.

(Source: WOS 2001-10, July 22, 2001, Section II)

6.503 NEPOTISM AND CONFLICT OF INTEREST

(WOS 2001-10 Section III was repealed and replaced by WOS 2002-05, section XIV [WOTC 6.414] which has been repealed by WOS 2006-007, section XV [WOTC 6.418]

6.504 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.

(Source: WOS 2001-10, July 22, 2001, Section IV)

Chapter 6. Service of Commissioners

6.601 CONTINUED SERVICE OF COMMISSIONERS

Members of the Tribal Commissions created pursuant to a Waganakising Odawak Statute will serve beyond the expiration of their terms until their successors are appointed and sworn in. This Statute repeals and replaces Waganakising Odawak Statute 1997002 which was enacted on February 16, 1997.

(Source: WOS 2001-08, April 22, 2001, Section I)

Chapter 7. Lewis and Doris Adams' Tribal Holiday

6.701 SHORT TITLE AND PURPOSE

A. Short Title

This Statute may be cited as the "Adams Tribal Holiday".

B. Purpose

The purpose of the Adams Tribal Holiday is to bestow posthumously upon Lewis Stephen Adams Sr. and Doris Amelia Kishigo-Adams the Tribe's greatest honors and accolades by setting aside a special day of recognition for their many contributions and gifts to our Tribal community.

(Source: WOS 2009-017, July 12, 2009, Section I)

6.702 AKNOWLEDGEMENTS AND FINDINGS

Tribal Council acknowledges and finds the following:

A. Lewis Stephen Adams Sr, Wyaudtnoong (Little Detroit) was born June 22,1922; married Doris Amelia Kishigo July 25,1946; and walked on January 27,1964;

B. As a young man Lewis was winner of the *1937 National Soap Box Derby* at Akron Ohio and later went on to win local notoriety as a *Golden Gloves Boxer*;

C. Lewis served honorably in the United States Marine Corp from 1942 to 1946 seeing action on the volcanic island of Iwo Jima;

D. As a veteran he was Commander of *AMVETS Post 50* (an all Indian post), he organized toy collection repairs and delivery for the Indian Orphanage in Marquette and was a friend of Ira Hayes;

E. He started the Little Traverse Indian Club of Harbor Springs and helped organize the last *Hiawatha Pageant* in Ottawa Stadium;

F. Lewis's reputation as a community leader prompted a request from Governor Williams of Michigan for a Traditional Blessing and Ceremony for the Mackinaw Bridge that was rapidly nearing completion;

G. In 1955, on top of the northern tower of the Mackinaw Bridge, Lewis performed a Pipe Ceremony and prayed for the blessings of *Gicthi-Manitou* and the safe completion of the bridge;

H. Doris Amelia Adams "Gijigowi Kwe" was born Aug. 8, 1925, in Petoskey to Mitchell and Amelia Kishigo. She was a graduate of Harbor Springs schools, and later married Lewis Adams, with whom she had seven children. Doris walked on February 11, 2008, at the age of 82. When Lewis died unexpectedly from a heart attack at the age of 41, Doris, who had been a stay-at-home mom for several years, took on two jobs to support her family — one at the *Community Action Agency*, and another as a bartender for *Birchwood Farms Lodge*.

I. After working with the *Community Action Agency* for several years Doris was offered a position with the *State of Michigan Department of Labor*, where she worked for more than 30 years. She served as an equal employment opportunity specialist, as well as a civil rights representative for nine Lower Peninsula counties and the entire Upper Peninsula.

J. During her time of working for the State, Doris attended the University of Michigan and later completed her business degree at Western Michigan University at the age of 56.

K. In addition to being an active member of the *Little Traverse Bay Bands (LTBB) of Odawa Indians*, Doris served for several years on the *Michigan Commission on Indian Affairs*. She was instrumental in writing the *Indian Tribal Welfare Act*, as well as being the only non-reservation Indian to speak at the hearings on the *Indian Education Act* in Washington D.C.

L. At the time of her retirement, Doris was honored by the U.S. Congress for her lifelong commitment to public service.

M. Doris continued her public service working for the LTBB Odawa Indians Membership Committee until 2005.

N. In 1998, the LTBB Tribal Council appointed Doris to a six-year term as a tribal appellate judge. She served in this capacity until September of 2003.

(Source: WOS 2009-017, July 12, 2009, Section II)

6.703 CREATION OF ADAMS HOLIDAY

A. The Tribal Council hereby creates the Adams Holiday as a recognized Tribal Holiday.

B. The Holiday will be held on the first Monday in September.
(Source: WOS 2009-017, July 12, 2009, Section III)

6.704 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.

(Source: WOS 2009-017, July 12, 2009, Section IV)

6.705 EFFECTIVE DATE

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

(Source: WOS 2009-017, July 12, 2009, Section V)

Chapter 8. Tribal Sovereignty Day

6.801 DECLARATION OF SOVEREIGNTY DAY

The Little Traverse Bay Bands of Odawa Indians Tribal Council designates September 21, 1995, and September 21 of each subsequent year to be Waganakising Odawa Tribal Sovereignty Day. The Little Traverse Bay Bands of Odawa Indians Tribal Council declares this date to be a Tribal holiday to be observed by all Tribal employees.

(Source: WOS 1995012, August 27, 1995)

Chapter 9. Odawa Property Managers

6.901 REPEAL

The Odawa Property Managers Act, being Waganakising Odawak Statute 1999004, is hereby repealed.

(Source: WOS 2000-10, September 24, 2000, Section I)

Chapter 10. Open Meetings

6.1001 PURPOSE

The purpose of this Statute is to implement the open meeting provisions of Bylaw Article I of the interim Constitution and Bylaws [WOTC 1.112], and to set standards and procedures for executive sessions when necessary to protect the interests of the Tribe and allow the Tribal Council to effectively perform its duties under Article VII of the interim Constitution and Bylaws [WOTC 1.108].

(Source: WOS 2000-14, October 22, 2000, Section I)

6.1002 REGULAR AND SPECIAL MEETINGS, EMERGENCY ACTION

A. With the exception of emergency action described in subsection (B), all official action of the Tribal Council must take place at regular and special meetings properly called under Bylaw Article I of the interim Constitution and Bylaws.

B. In situations where vital interests of the Tribe require immediate emergency action prior to a regular or special meeting, such action can be taken by phone poll or teleconference call for the limited purpose of addressing a matter for which the Tribe will suffer severe damage. In such situations, the Tribal Secretary or designee must certify that more than one attempt was made to contact each Tribal Council member by any practical means including telephone, fax, e-mail or in person. The action taken must be ratified at the next regular meeting of the Tribal Council, and the minutes must state the reason such emergency action was necessary.

(Source: WOS 2000-14, October 22, 2000, Section II)

6.1003 OPEN MEETINGS, EXECUTIVE SESSIONS

A. Pursuant to Bylaw Article I, Section 3 of the interim Constitution and Bylaws [WOTC 1.112] , all regular and special meetings are open to all LTBB members. The Tribal Council may by motion exclude non-LTBB members from all or part of a regular or special meeting.

B. When necessary to protect the interests of the Tribe and fulfill its responsibilities under Article VII of the interim Constitution and Bylaws the Tribal Council may, by motion and majority vote of a quorum, go into executive session during a regular or special meeting. Such motion shall state the reason for going into executive session, which can only include one or more of the following:

1. Pending litigation, negotiation, and other legal matters for which the interests of the Tribe could be damaged if publicly discussed;

2. Land purchases and other sensitive economic matters for which the interests of the Tribe could be damaged if publicly discussed;

3. Matters which involve questioned and sensitive activity of specific individual

employees, commissioners, or Council members. General personnel policy issues are not to be the subject of executive sessions.

C. The Tribal Council shall not discuss anything in executive session beyond the scope of the matters under subsections (B)(1),(2) or (3) for which the executive session was called. Tribal Council shall return to open session immediately upon completion of executive session discussions. Any action considered in executive session that can be taken in open session without harming Tribal interests shall be taken after the Tribal Council returns to open session.

(Source: WOS 2000-14, October 22, 2000, Section III)

6.1004 EFFECTIVE DATE

This Statute takes effect immediately upon enactment.

(Source: WOS 2000-14, October 22, 2000, Section IV)

6.1005 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, laws or ordinances of or governing 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.

(Source: WOS 2000-14, October 22, 2000, Section V)

Chapter 11. Gijigowi Anishinaabemowin, Language Department

6.1101 PURPOSE

This Statute is hereby enacted to establish the Anishinaabemowin Department for promoting and revitalizing Anishinaabemowin. This Statute is in honor of Gijigowi, Victor Simon Kishigo, for his dedication and work to revitalize Anishinaabe Culture and Anishinaabemowin. This Statute

may be cited as the “Gijigowi Anishinaabemowin Language Department”.

(Source: WOS 2009-010, March 8, 2009, Section I)

6.1102 DEFINITIONS

A. “Anishinaabemowin” means the language spoken by the Odawa people. Art.III(B).

B. “Department” means the Gijigowi Anishinaabemowin Language Department.

C. “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2009-010, March 8, 2009, Section II)

6.1103 CREATION OF THE GIJIGOWI ANISHINAABEMOWIN DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Anishinaabemowin Department titled “Gijigowi Anishinaabemowin Language Department” within the Executive Branch of government.

(Source: WOS 2009-010, March 8, 2009, Section III)

6.1104 AUTHORITY AND DUTIES

A. The Tribe has established an Anishinaabemowin Language Program that has supported the Tribe to begin to meet its Constitutional Directive Principle: “Promote the preservation and revitalization of Anishinaabemowin and Anishinaabe culture.” Art. I (B)(1)

B. The Department shall begin operations with current staff of the Anishinaabemowin Program.

C. The Department shall have the following duties:

1. Shall promote the preservation and revitalization of Anishinaabemowin and Anishinaabe culture.

2. Shall be responsible for administering all funds and grants to the Tribe related to Anishinaabemowin.

3. Shall be tasked with developing Anishinaabemowin resources, including curriculum, training aids, video and audio products.

4. Shall provide Anishinaabemowin educational programs.

5. Shall be responsible for adopting a common method of spelling.

6. Shall be responsible for assisting all LTBB governmental entities and enterprises with formal Anishinaabek names or requests.

(Source: WOS 2009-010, March 8, 2009, Section IV)

6.1105 RESTRICTIONS

A. All research, academic, and work products produced by the Department shall belong to the Tribe and be considered public documents.

B. Credits may be given for program and/or individual contributions to materials produced by the Department.

C. Copies may be used in educational promotion of Anishinaabemowin; all copies shall include all original credits.

D. Copy for profit shall be prohibited.

E. Only persons who are working towards or have obtained fluency in Anishinaabemowin shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of Anishinaaabemowin.

(Source: WOS 2009-010, March 8, 2009, Section V)

6.1106 REGULATIONS REQUIRED

Any regulations shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act.

(Source: WOS 2009-010, March 8, 2009, Section VI)

6.1107 APPROPRIATIONS AUTHORIZED

The current appropriations for the Anishinaabemowin Program shall be used to implement this statute and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2009-010, March 8, 2009, Section VII)

6.1108 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.

(Source: WOS 2009-010, March 8, 2009, Section VIII)

6.1109 EFFECTIVE DATE

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

(Source: WOS 2009-010, March 8, 2009, Section IX)

Chapter 12. Constitutionally Mandated Compensation

6.1201 PURPOSE

This Compensation Statute is hereby enacted to establish a standard method of setting compensation levels for the Tribal Chairperson, Tribal Vice-Chairperson, Legislative Leader, Tribal Council Secretary, Tribal Council Treasurer and Tribal Councilors, Tribal Judges, Justices, and the Prosecutor, and Election Board Members based on Constitutional duties and succession of Tribal Leadership. This Statute replaces and repeals Waganakising Odawak Statute 2003-05 *Tribal Council Compensation* and WOS 2005-04 *Constitutionally Mandated Compensation*.

(Source: WOS 2008-014, November 2, 2008, Section I)

6.1202 DEFINITIONS

A. *"Annual Salary"* means the amount of income paid during the calendar year.

B. *"Annual Taxable Stipend"* means the amount of income paid during the calendar year for attendance at regularly scheduled Tribal Council Meetings and Tribal Council Work Session, approximately two meetings and two work sessions per month.

C. **"***Compensation"* shall mean any form of salary, pay, stipend, fringe benefit, or other

monetary benefit.

D. *"Full-time status"* means an average of forty (40) hours a week with work hours of 8:00am -5:00 pm, Monday through Friday with reasonable time off for sickness or disability, holidays or personal time. Work assignments are expected to be completed during the normally scheduled work week, with reasonable flexibility and extra hours as necessary.

E. *"Stipend"* means the additional amount of compensation as listed in Section V for attendance at an event, meeting, training, work session or other approved activity, and limited to one stipend per day.

F. *"Travel Day"* means travel a day prior or after an event, meeting, training, work session or other approved activity.

G. *"Tribe"* shall mean the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-014, November 2, 2008, Section II)

6.1203 COMPENSATION CHANGE RESTRICTIONS

A. Tribal Council action changing the level of compensation for the Tribal Chairperson and Vice-Chairperson shall not take effect until after the next general election and has been sworn in.

B. Tribal Council action changing the level of compensation for the Legislative Leader, Tribal Council Secretary, Tribal Council Treasurer and Tribal Councilors shall not take effect until after the next general election and has been sworn in.

C. Tribal Council action changing the level of compensation for the Tribal Judges and Justices shall not decrease the amount of compensation during the individual appointed terms for the Chief Judge, Associate Judge or Appellate Justices.

D. Tribal Council action changing the level of compensation for the Tribal Prosecutor shall not decrease the amount of compensation during the individual appointed terms for the Prosecutor or Associate Prosecutors.

E. Tribal Council action changing the level of compensation for the Tribal Election Board shall not take effect until after the next general election and have been sworn in.

F. Any statutory amendment changing the level of compensation for Chairperson, Vice-Chairperson, Legislative Leader, Tribal Council Secretary, Tribal Council Treasurer, Tribal Councilors, or Election Board Members must be enacted before the Election Board distributes candidate petitions for the next election.

G. Any statutory amendment changing the level of compensation for the Judiciary must be enacted prior to the appointment or reappointment of a Judiciary member.

(Source: WOS 2008-014, November 2, 2008, Section III)

6.1204 COMPENSATION ESTABLISHED

A. All Tribal Councilors shall be compensated the amount of annual stipend listed in Section V for attendance at regularly scheduled meetings and work sessions.

1. Additional Stipends listed in Section V shall be paid for attendance at non-regularly scheduled events, meetings, trainings, work sessions, and other activities approved by policy or motion in advance.

2. A Travel stipends listed in Section V shall be paid one day prior and one day after attendance to an event, meeting, training, work session or other approved activity that would require the person to drive prior to 7:00 am in order to attend the start of the event or drive and return home after 8:00 pm. If flying is required to attend the event, meeting, training, work session or other approved activity then the person shall be paid a travel stipend for one day prior to the approved activity and one day after the approved activity.

3. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

4. Contributions to the Tribe's retirement plan or a similar plan shall be allowed with the same conditions and restrictions applied to Tribal employees and other contributors in the Tribal Government Retirement plan.

B. The Legislative Leader of the Tribal Council shall be compensated the amount of annual salary listed in Section V for coordination and preparation of meetings and agenda items and shall not be eligible for meeting stipends the two (2) days prior to any regularly scheduled Tribal Council meetings.

C. Tribal Council Secretary and Treasurer shall be compensated the amount of annual salary as listed in Section V.

D. The Tribal Chairperson and Tribal Vice-Chairperson shall be paid annual salaries listed in Section V and shall receive the following:

1. Contributions to the Tribe's retirement plan or a similar plan shall be allowed with the same conditions and restrictions applied to Tribal employees and other contributors in the Tribal Government Retirement plan.

2. Health insurance, life insurance and other Tribal insurance programs at the same rate as governmental employees.

3. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

E. The Chief Judge and Associate Judges shall be compensated annual salaries listed in Section V and shall receive the following:

1. Contributions to the Tribe's retirement plan or a similar plan shall be allowed

with the same conditions and restrictions applied to Tribal employees and other contributors in the Tribal Government Retirement plan.

2. Health insurance, life insurance and other Tribal insurance programs at the same rate as governmental employees.

3. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

F. Appellate Justices shall be compensated the annual salary listed in Section V and shall receive the following compensations:

1. The stipend amount listed in Section V for events, meetings, trainings, work sessions and approved activities.

2. Travel day(s) stipends listed in Section V shall be paid one day prior and one day after attendance to an event, meeting, training, work session or other approved activity that would require the person to drive prior to 7:00 am in order to attend the start of the event or drive and return home after 8:00 pm. If flying is required to attend the event, meeting, training, work session or other approved activity then the person shall be paid a travel stipend for one day prior to the approved activity and one day after the approved activity.

3. An hourly rate of compensation shall be paid for research, drafting, reviewing, telephone calls or telephone-conferences, revisions, and hearings.

4. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

G. Election Board Members shall be paid a stipend for events, meetings, trainings, work sessions and approved activities at the rate listed in Section V and shall be paid a special stipend listed in Section V on election days and shall receive the following

compensations:

1. Travel day(s) stipends listed in Section V shall be paid one day prior and one day after attendance to an event, meeting, training, work session or other approved activity that would require the person to drive prior to 7:00 am in order to attend the start of the event or drive and return home after 8:00 pm. If flying is required to attend the event, meeting, training, work session or other approved activity then the person shall be paid a travel stipend for one day prior to the approved activity and one day after the approved activity.

2. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

(Source: WOS 2008-014, November 2, 2008, Section IV)

6.1205 COMPENSATION RATES

A. Tribal Chairperson an annual salary of $85,000, based on full-time status

B. Tribal Vice-chairperson an annual salary of $ 60,000, based on full-time status

C. Tribal Council an annual stipend of $18,000 with addition compensation for:

1**.** Meeting and event stipend of $150.00 per day

2. Travel day(s) stipend of $100.00 per day

D. Legislative Leader an additional salary above that of Tribal Council salary of $17,000.

E. Tribal Council Treasurer and Secretary an additional salary above that of Tribal Council salary of $3,400.

F. Chief Judge an annual salary of $100,000.00, based on full-time status

G. Associate Judge(s) an annual salary of $95,000 based on full-time status

H. Appellate Justices an annual Salary of $6,000.00 with additional compensation for:

1. Stipend of $300.00 per day

2. Travel Day Stipend of $150.00 per day

3. Hourly rate of $50.00 per hour

I. Prosecutor:

1. Hourly rate, $85.00 per hour

J. Election Board Members:

1. Election day stipend, $250 per day

2. Meeting stipend, $150.00 per day

3. Travel day(s) stipend, $100.00 per day

K. No overtime shall be paid for any of the above mentioned positions.

(Source: WOS 2008-014, November 2, 2008, Section V)

6.1206 COMPENSATION PROHIBITIONS

A. Persons receiving compensation authorized by this Statute shall be prohibited from:

1. Receiving unemployment compensation for any reductions or termination of said compensation.

2. Receiving any other type of payment not explicitly listed in this Statute.

B. Contractual agreements made between election periods for the Prosecutor shall be consistent with this Statute and shall remain in effect with no changes until the agreement expires.

C. Compensation for Tribal Councilors or Election Board Members is prohibited for meetings and work sessions that are required to be posted that have not been publicized outside (i.e. Tribal web site) of the Tribal Offices for 5 days.

(Source: WOS 2008-014, November 2, 2008, Section VI)

6.1207 COMPENSATION POLICIES REQUIRED

The Tribal Council, Tribal Chairperson and Vice-Chair, Judges and Justices, Prosecutor and the Election Board shall be required to adopt a meeting policy that defines how meetings, travel and other compensated attendance is approved that meet acceptable auditing standards.

(Source: WOS 2008-014, November 2, 2008, Section VII)

6.1208 EMPLOYMENT

In accordance with Article XV of the Constitution adopted by the membership on February 1, 2005, employees of a Tribal enterprise are not required to leave their job unless their enterprise job and elected office are both fulltime paid positions.

(Source: WOS 2008-014, November 2, 2008, Section VIII)

6.1209 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.

(Source: WOS 2008-014, November 2, 2008, Section IX)

6.1210 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2008-014, November 2, 2008, Section X)

Chapter 13. Tribal Treasurer Responsibility

6.1301 PURPOSE

This Statute is hereby enacted to define the Tribal Council Treasurer's responsibilities and reporting that are explicitly enumerated in the Constitution, Article VII (3). This Statute repeals and replaces WOS NO. 2005-014.

(Source: WOS 2009-002, January 11, 2009, Section I)

6.1302 DEFINITIONS

A. The "Tribe" shall mean the Little Traverse Bay Bands of Odawa Indians.

B. "Treasurer" means the Tribal Council Treasurer.

(Source: WOS 2009-002, January 11, 2009, Section II)

6.1303 CONSTITUTIONAL DUTIES OF THE TREASURER

The Treasurer shall Article VIIC (3): *"submit an annual report, prepared by the accounting department, to the Tribal Membership at its annual meeting. This report shall include all funds received by the Little Traverse Bay Bands of Odawa Indians or through Tribal enterprises. This report shall include all appropriations of the operating funds and Tribal enterprises by*

department showing how the funds were spent and to include profit and loss statements where applicable."

1. Be required to acquire a surety bond in the amount of $0.00.

(Source: WOS 2009-002, January 11, 2009, Section III)

6.1304 REPORTING REQUIREMENTS

A. The Treasurer shall make available a quarterly report, prepared by the accounting office that contains the following information;

1. All funds received by the Tribal Government and all Tribal Enterprises;

2. All appropriations from the General Fund to the Tribal Government and each of the Tribal Enterprise.

3. All actual funds that are spent by department and programs within the Tribal Government and each of the Tribal Enterprises.

4. A profit and loss statement for each of the Tribal Enterprises, including a statement of Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA), equity and short and long-term liabilities and liquid ratio and debt to EBITDA ratio.

B. This report shall be available to all Tribal Citizens upon request.

(Source: WOS 2009-002, January 11, 2009, Section IV)

6.1305 OTHER DUTIES REQUIRED BY THE TRIBAL COUNCIL

This Statute hereby establishes the Tribal Council Appropriations and Finance Standing Committee

A. The Committee shall:

1. Consist of three Tribal Council Members assigned by motion, and majority vote at a regularly scheduled Tribal Council meeting and;

2. Be chaired by the Tribal Treasurer and;

3. Have authority to review all the Tribe's accounts including but not limited to Enterprises and Tribally owned corporations and;

4. All requests and responses for information shall be forwarded to all Tribal Council Members and;

5. All committee members shall be compensated in accordance with the Tribal Council's stipend policy for attendance at meetings that are scheduled in advance and advertised and;

6. The Committee shall report to the full Tribal Council through the Treasurer's report.

B. The Treasurer shall:

1. Be signatory on all real-estate transactions and;

2. Shall be one of the authorized signers for expenditures from the approved Tribal Council Budget and;

3. Be assigned other duties as approved by Tribal Council.

(Source: WOS 2009-002, January 11, 2009, Section V)

6.1306 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, laws or ordinances of the

Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-002, January 11, 2009, Section VI)

6.1307 EFFECTIVE DATE

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

(Source: WOS 2009-002, January 11, 2009, Section VII)

Chapter 14. Administrative Procedures

6.1401 REPEAL

This chapter of the Administrative Procedures Act is hereby repealed and replaced with Title VI, Chapter 2, Administrative Procedures Act, Waganakising Odawak Statute 2006-28.

Chapter 15. Enjinaaknegeng

6.1501 PURPOSE

The purpose of this Statute is to set out the roles and functions of the Executive Legal Department in accordance with the LTBB Constitution. This Statute repeals and replaces WOS 2005-016.

(Source: WOS 2007-009, November 18, 2007, Section I)

6.1502 CREATION OF LEGAL DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Constitution the Tribal Council approves the creation of an Executive Department to be known as Enjinaaknegeng which may also be referred to in English as Legal Department (hereafter in this Statute "Department"). It shall be the duty of the Department to provide legal services, counsel to, and representation of LTBB on legal matters (including work with subordinate Tribal entities) under the direction and supervision of the Tribal Chairperson. Provided the Department shall get approval from the Tribal Council prior to actions taken or matters worked on by the Legal Department, that are subject to Tribal Council approval under the Constitution including:

1. acquiring and leasing real property
2. placing land in trust with the United States
3. filing of lawsuits in the name of the Tribe, and
4. any negotiations with other governments, businesses or individuals.

B. The Department may also utilize outside attorneys and consultants as approved by the Chairperson 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.

C. 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.

D. Unspent annual budgeted funds for the Legal Department shall carry over to the following year. Each year the Legal 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, provided 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. The Executive shall provide reports quarterly or as otherwise requested by Tribal Council, on the status of the amounts and expenditures of these carry-over funds.

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

(Source: WOS 2007-009, November 18, 2007, Section II)

6.1503 INTERACTION WITH BRANCHES OF GOVERNMENT

A. Status as Executive Department. The Department shall report directly to the Tribal Chairperson and Vice-Chairperson. It shall assist the Chairperson, Vice-Chairperson and Executive Departments as directed by the Chairperson. In the event that any Executive officials or staff is sued in their official capacity, the Department shall defend such suits and insure that Tribal Council receives proper notification. The Department 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.

B. Applicability of Attorney/Client privilege. The attorney/client privilege applies to any confidential communications between the Department and any branch of LTBB government, including elected and appointed officials, employees and agents.

C. Constitutional questions.

1. In the event of a disagreement between the Executive and Legislative branches on a constitutional question, the Department will participate in informal efforts to come to an agreement on such questions.

2. The Department will only represent the position of the Executive in Tribal Court if both Tribal Council and the Executive concurs that it is in the Tribe's interest for the Department to represent the Executive in seeking Tribal Court resolution of a constitutional issue.

(Source: WOS 2007-009, November 18, 2007, Section III)

6.1504 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.

(Source: WOS 2007-009, November 18, 2007, Section IV)

6.1505 EFFECTIVE DATE

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

(Source: WOS 2007-009, November 18, 2007, Section V)

Chapter 16. Tribal Youth Services Department

6.1601 PURPOSE

The Tribal Youth are the Tribe's most vital and cherished future resource. To ensure that the Tribal Youth of the LTBB have the necessary opportunities to prepare them for their future, the Tribe will support the pursuit of cultural, social, educational, and leadership opportunities.

This Statute is hereby enacted to establish a Tribal Youth Services Department that will provide services for the Tribal Youth of the Little Traverse Bay Bands of Odawa Indians. The Tribal Youth will be provided financial resources when available to allow their participation in events deemed beneficial. Opportunities available through coordination or collaboration with other departments or entities that service Tribal Youth will be a priority.

(Source: WOS 2006-012, July 25, 2006, Section I)

6.1602 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians (LTBB).

B. "**Youth**" A person who is less then eighteen (18) years of age.

C. "**Tribal Youth**" shall mean youths who are enrolled members of LTBB, from another recognized Tribe or youth who have community ties.

D. "**Volunteers**" shall mean unpaid helper.

(Source: WOS 2006-012, July 25, 2006, Section II)

6.1603 APPLICATION

A. Provide funding and structure for Tribal Youth participation in activities that are cultural, social, and educational or leadership oriented.

B. Tribal Departments shall coordinate and collaborate with the Tribal Youth Services Department to provide services for Tribal Youths.

C. The program may begin within the current 2006 budget.

D. This is a stand alone department and shall not be under any other department or director.

(Source: WOS 2006-012, July 25, 2006, Section III)

6.1604 RESTRICTIONS

A. Indian Preference in Tribal Employment Statute shall apply.

B. Personnel or volunteers who have been convicted of "Criminal Sexual Conduct" or

"Violent Acts against youth" in any court of competent jurisdiction shall not be allowed unrestricted access to any youth within the jurisdiction of the Tribe unless pardoned by the Tribal Executive to work with Tribal Youths.

(Source: WOS 2006-012, July 25, 2006, Section IV)

6.1605 REGULATIONS REQUIRED

A. Tribal Regulations shall be required.

B. The Tribal Regulations shall require background investigations for all personnel who have unrestricted access to Tribal Youth.

(Source: WOS 2006-012, July 25, 2006, Section V)

6.1606 PROCEDURES REQUIRED

Developed by the Executive Branch.

(Source: WOS 2006-012, July 25, 2006, Section VI)

6.1607 APPROPRIATIONS REQUIRED

Current budget proposals have enough to start the program. For future budgets the Executive is hereby directed to include appropriations requests for this program.

(Source: WOS 2006-012, July 25, 2006, Section VII)

6.1608 EXECUTIVE AUTHORITY

The Tribal Executive is hereby mandated to implement this Statute and to enforce all approved Tribal Codes of Regulation and to implement all required Administrative Procedure's.

(Source: WOS 2006-012, July 25, 2006, Section VIII)

6.1609 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.

(Source: WOS 2006-012, July 25, 2006, Section IX)

6.1610 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-012, July 25, 2006, Section X)

Chapter 17. Office of the Legislative Attorney

6.1701 ESTABLISHMENT

This Statute hereby establishes under the Tribal Council an office to be known as the Office of the Legislative Services Attorney, also referred to in this Statute as the "Office".

(Source: WOS 2006-022, October 24, 2006, Section I)

6.1702 PURPOSE

The purpose of the Office shall be to advise and assist the Tribal Council, and its committees and members, in the achievement of a clear, faithful, and coherent expression of legislative policies.

(Source: WOS 2006-022, October 24, 2006, Section II)

6.1703 POLICY

The Office shall maintain impartiality as to issues of legislative policy to be determined by the Tribal Council, and shall not advocate the adoption or rejection of any legislation. The Office shall maintain the attorney-client relationship with respect to all communications relating to the development of legislation between it and any member or committee of the Tribal Council. Serve as attorney for the Little Traverse Bay Bands of Odawa Indians (LTBB) Tribal Council in any court action.

(Source: WOS 2006-022, October 24, 2006, Section III)

6.1704 FUNCTIONS

The functions of the Office shall be as follows:

A. Upon request of any one or more members of the Tribal Council or committee of the Tribal Council, to assist in the drafting of legislation, including statutes, resolutions and policies, and accompanying reports, in accordance with the policy objectives of the requestor/s. Tribal Council may adopt such rules as are necessary to equally share the services of the Office.

B. Provide legal counsel and services by motion or consensus of Tribal Council.

C. To objectively advise Tribal Council on interpretation of any pending legislation, point out ambiguities, and make technical suggestions to improve clarity and organization to keep Tribal Council statutes current and codified in accordance with the Legislative Procedures Statute (WOS 2005-10), as may be amended, or any other applicable LTBB law.

(Source: WOS 2006-022, October 24, 2006, Section IV)

6.1705 STAFFING

The Office will be staffed by a Legislative Services Attorney, and such staff as may be provided for in a budget approved by Tribal Council.

(Source: WOS 2006-022, October 24, 2006, Section V)

6.1706 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.

(Source: WOS 2006-022, October 24, 2006, Section VI)

6.1707 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-022, October 24, 2006, Section VII)

Chapter 18. Financial Disclosure by Tribal Officials

6.1801 PURPOSE

This Statute is hereby enacted to establish a standard requirement for financial disclosure from elected and appointed officials.

(Source: WOS 2006-023, November 22, 2006, Section I)

6.1802 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

B. "**Official**" shall mean any elected position, any position appointed by Tribal Council or the Executive.

C. "**Immediate Family**" for the purpose of this statute only, means any relative of the

official living in the same household as the official.

D. "**Personal Financial Interest**" shall mean a financial interest for the official or any immediate family members.

(Source: WOS 2006-023, November 22, 2006, Section II)

6.1803 CONFLICT OF INTEREST

A. The Tribal Chairperson and Vice-chairperson shall not be employed in any Tribal enterprises over which they have been delegated oversight authority.

B. In carrying out the duties of Tribal office, no Tribal Official, elected or appointed, shall make or participate in making decisions which provides to the official or the official's immediate family a personal financial interest other than an interest held in common by all Tribal members.

C. In carrying out the duties of Tribal office, no members of Tribal Commissions, Boards or Committees shall make or participate in making decisions changing the level of any monetary Tribal benefits they are receiving.

(Source: WOS 2006-023, November 22, 2006, Section III)

6.1804 DISCLOSURE REQUIRED

A. All candidates for election in any Tribal election shall disclose the information listed in Section V with their petition for election;

B. All candidates for appointment to any commission, board, committee, or positions required by Tribal Council shall disclose the information listed in Section V, E, prior to taking office;

C. All elected and appointed officials shall disclose the information listed in Section V on an annual basis or in the event any changes occurring that effect the information listed in Section V; and

D. Any disclosure required by this statute that cannot be met due to time of enactment shall be due within 120 days after enactment of this statute.

(Source: WOS 2006-023, November 22, 2006, Section IV)

6.1805 DISCLOSURES LISTED

A. A statement identifying all employers, all positions currently held (board seats etc.), all financial interest in companies, corporations, stocks and, bonds but not retirement funds, mutual funds or any type of financial instrument in which the owner does not have control over the purchase and sale of the instrument's holdings;

B. A list of all consulting activities;

C. A list of all revenue derived from any Tribal sources;

D. All real-estate holdings;

E. Commissioners are exempt for supplying the above list however they must sign a statement verifying that any of their holdings in the above list are not a conflict with the position they hold.

(Source: WOS 2006-023, November 22, 2006, Section V)

6.1806 PROCEDURES REQUIRED

The Election Board shall develop a procedure to collect, hold and release information required by this statute for all elected and appointed officials.

(Source: WOS 2006-023, November 22, 2006, Section VI)

6.1807 AUTHORITY DELEGATED

The Tribal Election Board is hereby mandated to implement this Act and the Tribal Executive is hereby mandated to enforce this Act and all required Administrative Procedures.

(Source: WOS 2006-023, November 22, 2006, Section VII)

6.1808 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.

(Source: WOS 2006-023, November 22, 2006, Section VIII)

6.1809 EFFECTIVE DATE

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

(Source: WOS 2006-023, November 22, 2006, Section IX)

Chapter 19. Disclosure of Pubic Documents Act

6.1901 PURPOSE

This Statute mandates disclosure of public documents and provides for the certain exempted public documents from public disclosure regarding the records of Little Traverse Bay Bands of Odawa Indians as mandated by the Tribal Constitution, Article VII D (7).

(Source: WOS 2009-025, August 9, 2009, Section I)

6.1902 DEFINITIONS

A. *"Appropriate Authority"* means the person who possesses the authority to make the decision within the government branch or division, department, agencies, entity, enterprise or office.

B. *"Authorized Representative"* means a Tribal Citizen who holds a signed notarized statement of authority on behalf of another Tribal Citizen.

C. *"Public Documents"* means all written or electronic documents unless exempt by applicable law.

D. *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2009-025, August 9, 2009, Section II)

6.1903 EXEMPT RECORDS FROM PUBLIC DISCLOSURE

A. All documents are considered public and must be disclosed unless exempt by Statute.

B. Documents that contain personal information affecting an individual's privacy are exempt from disclosure. This exemption would include personnel and medical records and similar records that constitute a clearly unwarranted invasion of personal privacy. This exemption does not include withholding information pertaining to the Tribal Citizen who is requesting the record except for the following:

1. Sealed adoption records within the Tribal Citizen's enrollment file that have been sealed under a court order.

2. Records covered by attorney client privilege.

3. Records specifically exempt by other Statutes.

C. The following records are exempt from public disclosure:

4. Records that contain confidential business or legal matter to the Tribe or a Tribal Citizen.

5. Records that rise significant privacy or confidentiality concerns for the tribe or a Tribal Citizen.

6. Records within a pending investigation either before an administrative or judicial proceeding involving the Tribe or a Tribal Citizen.

4. Records that could impair a criminal investigation.

5. Records specifically exempt by other statutes.

(Source: WOS 2009-025, August 9, 2009, Section III)

6.1904 ACCESS FOR REVIEW

A. The appropriate authorities within the following governmental divisions shall make available for review all public documents, unless exempt by applicable law:

1. Executive

2. Legislative

3. Judiciary

4. Prosecutor

5. Election Board

B. All branches of government shall release public documents to any Tribal Citizen making a request in accordance with approved regulations.

1. Public documents shall include but not be limited to:

a. all budgets approved by Tribal Council,
b. all documents supporting budgets, budget modifications and all documents used in budget formulations,

c. reports, memos, emails, letters and other written material in the possession of any branch of government that is not classified as a document identified with restrictions in this ACT.

C. Any request for review of documents must be made by a Tribal Citizen or an authorized representative.

(Source: WOS 2009-025, August 9, 2009, Section IV)

6.1905 REVIEW OF DOCUMENTS

A. Request for review may be made in person or in writing and must be accompanied with a copy of a Tribal identification card.

B. Each request must be specific in nature as to what documents are being requested for review.

C. Requests for review may be limited to normal office hours. Such office hours shall be posted by the appropriate authority.

D. Whenever possible the appropriate authority shall make the documents available immediately for review, or as soon as possible thereafter.

E. If copies are requested, the appropriate authority may charge a reasonable fee for cost of copies. Such cost shall be determined and made known to the Tribal Citizen prior to the incurrence of cost.

(Source: WOS 2009-025, August 9, 2009, Section V)

6.1906 REQUIRED REGULATIONS

A. The Tribal Executive shall develop regulations to implement this Statute establishing:

1. A method for defining classifications of documents as but not limited to public,

confidential, undisclosed, legal, enterprise proprietary, and personnel.

2. A method for marking, controlling, keeping and releasing confidential document.

3. A schedule for reasonable cost for release of documents.

(Source: WOS 2009-025, August 9, 2009, Section VI)

6.1907 VIOLATIONS and HEARINGS

A Tribal Citizen, who claims that an appropriate authority has violated this Statute, must submit a complaint for a hearing to the Tribal Court within 30 days of the alleged violation

(Source: WOS 2009-025, August 9, 2009, Section VII)

6.1908 SAVINGS CLAUSE

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

(Source: WOS 2009-025, August 9, 2009, Section VIII)

6.1908 EFFECTIVE DATE

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

(Source: WOS 2009-025, August 9, 2009, Section IX)

Chapter 20. Application of Foreign Law

6.2001 PURPOSE

The jurisdiction of the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) over persons and entities within its territory is determined by the Tribe's inherent sovereignty, the Constitution and laws of the Tribe, and federal statutory and case law, which changes over time. Generally, the Tribe has full criminal and civil jurisdiction over its members within its territory, and outside its territory for certain Treaty rights and child welfare purposes. The extent of the Tribe's civil and criminal jurisdiction over non-LTBB members often requires a case-by-case analysis. The purpose of this Statute is to establish law for persons within LTBB territory in situations where LTBB's jurisdiction does not apply.

(Source: WOS 2005-03, March 20, 2005, Section I)

6.2002 APPLICATION OF FOREIGN LAW

All persons within LTBB's territory and that do not fall under the jurisdiction of LTBB shall be required to follow United States and State of Michigan civil and criminal laws.

(Source: WOS 2005-03, March 20, 2005, Section II)

6.2003 SOVEREIGN IMMUNITY

This Statute is neither a real or implied waiver of LTBB sovereign immunity. This Statute does not reduce or supplant jurisdiction of LTBB over Non-Tribal Members where LTBB laws apply.

(Source: WOS 2005-03, March 20, 2005, Section III)

6.2004 EFFECTIVE DATE

This Statute takes effect thirty days from adoption [March 20, 2005].

(Source: WOS 2005-03, March 20, 2005, Section IV)

Chapter 21. The Tribal Seal of the Waganakising Odawak Nation

6.2101 PURPOSE

It is recognized that the Tribal Seal represents pride in the accomplishments of the Waganakising Odawak, and it is desired that the Tribal Seal be displayed as symbol of acknowledgment of the sovereign nation status of the Waganakising Odawak.

(Source: WOS 2006-015, August 28, 2006, Section I)

6.2102 CREATION OF THE SEAL

The Tribal Seal shall be that created by the Waganakising Odawak through Tribal Council motion on December 5, 1999, which has been in common use by the Tribal Government since that action.

(Source: WOS 2006-015, August 28, 2006, Section II)

6.2103 DESCRIPTION OF THE TRIBAL SEAL

The Tribal Seal of the Waganakising Odawak Nation shall be the size of an American Silver Dollar. The design portion of the mark depicts in a circle an Anishinaabe paddling a canoe on a lake. An eagle soars across the sky in front of the sun. A crooked tree branch, an elk, a bear and a turtle are depicted within a circle with six feathers hanging from the circle.

(Source: WOS 2006-015, August 28, 2006, Section III)

6.2104 USE OF THE TRIBAL SEAL; MEANS OF AUTHENTIFICATION

The use of the Tribal Seal is therefore established in accordance to the following standards:

A. The embossed seal is the mark of identification signifying the authenticity of statutes and resolutions executed in the name of Waganakising Odawak.

B. The non-embossed seal may be used within the Waganakising Odawak for purposes authorized by the Waganakising Odawak Tribal Council.

(Source: WOS 2006-015, August 28, 2006, Section IV)

6.2105 PROTECTOR OF THE TRIBAL SEAL

Under the Constitution the Secretary "shall maintain and protect the Tribal Seal." The Tribal Secretary may carry out this duty through ensuring safe storage of the Tribal Seal at the Tribal Governmental offices with staff assistance.

(Source: WOS 2006-015, August 28, 2006, Section V)

6.2106 ALTERATION OF TRIBAL SEAL

The Tribal Seal shall not be altered unless by a unanimous vote of the Waganakising Odawak Tribal Council.

(Source: WOS 2006-015, August 28, 2006, Section VI)

6.2107 UNAUTHORIZED USE; CONVICTION; PENALTY

A. Any unauthorized use of the Tribal Seal, shall be deemed a civil offense.

B. Any person convicted of a violation of any of the provisions of this Statute shall be guilty of a civil offense and upon conviction thereof shall be a fine of not more than Five Hundred dollars ($500.00), including costs, fees, per each offense.

(Source: WOS 2006-015, August 28, 2006, Section VII)

6.2108 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.

(Source: WOS 2006-015, August 28, 2006, Section VIII)

6.2109 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-015, August 28, 2006, Section IX)

Chapter 22. Judicial and Prosecutorial Appointments

6.2201 PURPOSE

This Judicial and Prosecutorial Appointments Statute is hereby enacted to establish a standard method of selecting judges, justices, and prosecutors.

(Source: WOS 2006-003, March 19, 2006, Section I)

6.2202 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians (LTBBOI).

B. "**Qualified Applicants**" means an applicant that meets the eligibility and restriction requirements of the judicial and prosecutorial positions listed in the LTBBOI Constitution.

(Source: WOS 2006-003, March 19, 2006, Section II)

6.2203 DEVELOPMENT OF PROCEDURES; RECEIPT OF NOMINATIONS; SUBMISSION TO TRIBAL COUNCIL

A. The Tribal Executive shall develop an Administrative Procedure to receive applications from "qualified applicants" to fill the Tribe's Judicial and Prosecutorial offices, and to fill any vacancies in the Tribe's Judicial and Prosecutorial offices. The procedure shall provide for recommendations originating from the Executive, individual applications, and recommendations by official action at a Tribal Membership meeting. The procedure shall ensure each submission is for a specific position and term and shall establish timelines for making nominations to fill vacancies.

B. Tribal Executive shall receive all petitions and applications for nomination to the positions of judges, justices, and prosecutors and shall ensure that only qualified applicants are forwarded to the Tribal Council as nominations.

C. The submission of nominations to the Tribal Council for appointments, and to fill vacancies, shall be prepared by the Tribal Executive. Each submitted nomination must be for a specific position and term.

(Source: WOS 2006-003, March 19, 2006, Section III)

6.2204 APPOINTMENTS

Tribal Council shall adopt a procedure for making judicial and prosecutorial appointments.

(Source: WOS 2006-003, March 19, 2006, Section IV)

6.2205 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.

(Source: WOS 2006-003, March 19, 2006, Section V)

6.2206 EFFECTIVE DATE

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

(Source: WOS 2006-003, March 19, 2006, Section VI)

Chapter 23. Membership in MAST, NIGA, and NCAI

6.2301 PURPOSE

The Tribal Council of the Little Traverse Bay Bands of Odawa Indians wishes to maintain a regional and national presence in Indian Country through membership in the Midwest Alliance of Sovereign Tribes (MAST), National Indian Gaming Association (NIGA) and the National Congress of American Indians (NCAI). This statute repeals and replaces all prior actions authorizing membership in MAST, NIGC, and NCAI by Tribal Council.

(Source: WOS 2006-002, February 5, 2006, Section I)

6.2302 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2006-002, February 5, 2006, Section II)

6.2303 MEMBERSHIP AUTHORIZATION

The Tribal Council authorizes annual membership in the Midwest Alliance of Sovereign Tribes, National Indian Gaming Association and the National Congress of American Indians.

(Source: WOS 2006-002, February 5, 2006, Section III)

6.2304 REPRESENTATION AT MEETINGS

The Tribal Council recognizes the Tribal Executive as the ambassadorial branch of the

government and authorizes the Tribal Chair to choose and send delegates and alternates to the MAST, NIGA, and NCAI meetings.

(Source: WOS 2006-002, February 5, 2006, Section IV)

6.2305 APPROPRIATION

A. The Tribal Council has by prior action appropriated the funds necessary to pay annual dues for these organizations and hereby directs the Executive to place appropriate allocations in for future budget requests.

B. The Executive is authorized to release the information necessary for each organization to determine dues, votes, and other membership conditions.

(Source: WOS 2006-002, February 5, 2006, Section V)

6.2306 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.

(Source: WOS 2006-002, February 5, 2006, Section VI)

6.2307 EFFECTIVE DATE

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

(Source: WOS 2006-002, February 5, 2006, Section VII)

Chapter 24. Tribal Notary Public

6.2401 SHORT TITLE

This Statute shall be entitled "Waganakising Odawak Tribal Notary Public Statute" and cited as the Tribal Notary Statute.

(Source: WOS 2008-005, April 6, 2008, Section I)

6.2402 PURPOSE

This Statute shall foster ethical conduct among Notaries as Notaries Publics play a vital role in assuring the integrity of documents essential to commercial and legal transactions and serve to promote and protect the public interest from fraud.

(Source: WOS 2008-005, April 6, 2008, Section II)

6.2403 DEFINITIONS

A. "Acknowledgment" means a notarial act in which an individual at a single time and place:

1. Appears in person before the Notary and presents a document;

2. Is personally known to the Notary or identified by the Notary through satisfactory evidence; and

3. Indicates to the Notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

B. "Affirmation" means a notarial act, or part thereof, in which an individual at a single time and place:

1. Appears in person before the Notary;

2. Is personally known to the Notary or identified by the Notary through satisfactory evidence; and

3. Makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and using any form of the word "swear."

C. "Commission" means both to empower to perform notarial acts and the written evidence of authority to perform those acts.

D. "Copy Certification" means a notarial act in which a Notary:

1. Is presented with a document that is neither a vital record, a public record, nor publicly recordable;

2. Copies or supervises the copying of the document using a photographic or electronic copying process;

3. Compares the document to the copy; and

4. Determines that the copy is accurate and complete.

E. "Credible Witness" means an honest, reliable, and impartial person who personally knows an individual appearing before a Notary and takes an affirmation from the Notary to vouch for that individual's identity.

F. "Enrollment Office" means the Tribal agency makes application determinations, and issues, maintains and revokes the Notary Commissions.

G. "Jurat" means a notarial act in which an individual at a single time and place:

1. Appears in person before the Notary and presents a document;

2. Is personally known to the Notary or identified by the Notary through satisfactory evidence;

3. Signs the document in the presence of the Notary; and

4. Takes an affirmation from the Notary vouching for the truthfulness or accuracy of the signed document.

H. "Little Traverse Bay Bands of Odawa Indians jurisdiction" means *all territory within the Tribal Reservation and to any and all persons or activities therein based upon the inherent sovereign authority of the Little Traverse Bay Bands of Odawa Indians and Federal law. (Little Traverse Bay Bands of Odawa Indians Constitution, Article IV (B)).*

I. "Nolo contendere" means does not contest, or fight the allegation of an offense or charges.

J. "Notarial Act" and "Notarization" means any act that a Notary is empowered to perform under this Statute.

K. "Notarial Certificate" and "Certificate" means the part of, or attachment to, a notarized document that is completed by the Notary, bears the Notary's signature and seal, and states the facts attested by the Notary in a particular notarization.

L. "Notary Public" and "Notary" means any person commissioned to perform official acts under this Statute.

M. "Official Misconduct" means:

1. A Notary's performance of any act prohibited, or failure to perform any act mandated, by this Statute or by any other law in connection with a notarial act by the Notary; or

2. A Notary's performance of an official act in a manner found by the Enrollment Office and/or the Tribal Court to be negligent or against the public interest.

N. "Personal Appearance" or "Appears in Person before the Notary" means that the

principal and the Notary are physically close enough to see, hear, communicate with, and give identification documents to each other.

O. "Personal Knowledge of Identity" and "Personally Knows" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

N. "Principal" means:

1. A person whose signature is notarized; or

2. A person, other than a credible witness, taking an affirmation from the Notary.

P. "Regular place of work or business" means a stationary office or workspace where one spends all or some of one's working or business hours.

Q. "Reservation" means (*Refer to Article V (A)1(b) Reservation in the Constitution) For the purposes of this [statute] section "Reservation" means the areas referenced in Public Law 103-324, 25 U.S.C. Section 1300k-2(b)(2)(A) as "the boundaries of the reservation for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat. 621.* plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of the Interior.

R. "Satisfactory evidence of identity" means identification of an individual based on:

1. At least one current document issued by a federal, state, or tribal government bearing the photographic image of the individual's face and signature; or

2. The affirmation of one credible witness unaffected by the document or transaction who is personally known to the Notary and who personally knows the individual, or of 2 credible witnesses unaffected by the document or transaction who each

personally knows the individual and shows to the notary documentary identification as described in Subparagraph (1) of this section.

S. "Seal" means a device for affixing on a paper document an image containing a Notary's name, jurisdiction, commission expiration date, and other information related to the Notary's commission.

T. "Signature witnessing" means a notarial act in which an individual at a single time and place:

1. Appears in person before the Notary and presents a document;

2. Is personally known to the Notary or identified by the Notary through satisfactory evidence; and

3. Signs the document in the presence of the Notary.

U. "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

V. "Tribal Court" means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

W. "Verification of fact" means a notarial act in which a Notary reviews public or vital records to ascertain or confirm any of the following facts regarding a person:

1. Date of birth or death;

2. Name of parent, offspring, or sibling;

3. Date of marriage or divorce;

4. Name of marital partner; or

5. Tribal citizenship

(Source: WOS 2008-005, April 6, 2008, Section III)

6.2404 COMMISSIONING OF NOTARY PUBLIC

A. Qualifications

The Enrollment Office shall issue a notary commission to any qualified person who submits an application in accordance with this Statute. A person qualified for a notary commission shall be:

1. At least 18 years of age;

2. Resides or has a regular place of work or business within the boundaries of the Little Traverse Bay Bands of Odawa Indian's reservation;

3. A citizen of the Little Traverse Bay Bands of Odawa Indians or another Federally Recognized Tribe or is an employee of Little Traverse Bay Bands of Odawa Indians;

4. Has legal residency in the United States;

5. Able to read and write;

6. May be required to submit documentation of a full criminal background check.

B. Application Materials

Every application for a notary commission shall be made on forms determined by the Enrollment Office that shall include:

1. The applicant's name and date of birth;

2. The applicant's residence address and telephone number;

3. The applicant's business address and telephone number, the business mailing address, if different, and the name of the applicant's employer, if any;

4. A declaration that the applicant is a citizen of the Little Traverse Bay Bands of Odawa Indians or another Federally Recognized Tribe or is an Employee of the Little Traverse Bay Bands of Odawa Indians and documentation of proof;

5. A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country;

6. A declaration that the applicant can read and write;

7. All issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other tribe, state or nation;

8. All criminal convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other tribe, state or nation;

9. All claims pending or disposed against a notary bond held by the applicant, and all civil findings or admissions of fault or liability regarding the applicant's activities as a Notary, in this or any other tribe, state or nation;

10. Documentation may be required of a full criminal background check of the applicant;

11. An application fee;

12. Such other information as the Enrollment Office may deem appropriate.

C. Application Denial

The Enrollment Office shall deny an application based on any of the following:

1. Submission of an official application containing material misstatement or omission of fact;

2. The applicant's conviction or plea of admission or nolo contendere for a felony or any crime involving dishonesty or moral turpitude, but in no case may a commission be issued to the applicant within 5 years after such conviction or plea;

3. A finding or admission of liability against the applicant in a civil lawsuit based on the applicant's deceit;

4. Revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other tribe, state or nation, but in no case may a commission be issued to the applicant within 5 years after such disciplinary action; or

5. An official finding that the applicant had engaged in official misconduct, whether or not disciplinary action resulted.

D. Application Appeal

Denial of an application may be appealed by filing in proper form with the Tribal Court within thirty (30) days after denial, except that an applicant may not appeal when the Enrollment Office within 5 years prior to the application has:

1. Denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or

2. Made a finding that grounds for revocation of the applicant's commission existed.

E. Jurisdiction and Term

A person commissioned as a Notary may perform notarial acts in any part of the Little Traverse Bay Bands of Odawa Indians' reservation for a term of six (6) years, unless the commission is earlier revoked under Section 12-3 or resigned under Section 11-3.

F. Bond

1. A notary commission shall not be issued until an oath of office and Ten Thousand dollars ($10,000) bond have been filed with the Enrollment Office. The bond shall be executed by a licensed surety, for a term of six (6) years commencing on the commission's effective date and terminating on its expiration date.

2. The surety for a notary bond shall report all claims against the bond to the Enrollment Office.

3. If a notary bond has been exhausted by claims paid out by the surety, the Enrollment Office shall suspend the Notary's commission until:

a. a new bond is obtained by the Notary; and

b. the Notary's fitness to serve the remainder of the commission term is determined by the Enrollment Office.

G. Commissioning Documents

Upon issuing a notary commission, the Enrollment Office shall provide to the Notary a commission document stating the commission serial number and starting and ending dates; and

1. Certificate of Authorization to Purchase a Notary Seal stating the commission serial number.

H. Re-Commissioning

A current or former Notary applying for a new notary commission shall submit a new completed application and comply anew with all of the provisions of Chapters 3 and 4.

I. Notarized Declaration

Every applicant for a notary commission shall sign the following declaration in the presence of a Notary of the Enrollment Office or another Notary of this Tribe:

Declaration of Applicant
I, _____ (name of applicant), solemnly swear under penalty of perjury that the personal information in this application is true, complete, and correct; that I understand the official duties and responsibilities of a Notary Public of the Little Traverse Bay Bands of Odawa Indians, as explained in the course of instruction I have taken; and that I will perform, to the best of my ability, all notarial acts in accordance with the law.
_____ (signature of applicant)
(notarial certificate)

J. Application Fee

Every applicant for a notary commission shall pay to the Little Traverse Bay Bands of Odawa Indians a nonrefundable application fee of Ten dollars ($10.00).

K. Confidentiality of Application

Information required by this section shall be used by the Enrollment Office staff only for the purpose of performing official duties under this Statute and shall not be disclosed to any person other than a government agent acting in an official capacity and duly authorized to obtain such information, a person authorized by court order, or to the applicant or such individual's duly authorized agent.

(Source: WOS 2008-005, April 6, 2008, Section IV)

6.2405 POWERS AND LIMITATIONS OF NOTARY PUBLIC

A. Powers

A Notary is empowered to perform the following notarial acts:

1. Acknowledgments;

2. Oaths and affirmations;

3. Jurats;

4. Signature witnessings;

5. Copy certifications;

6. Verifications of fact;

7. Any other acts so authorized by the law of this Tribe.

B. Prohibitions

A Notary shall not perform a notarial act if the principal:

1. Is not in the Notary's presence at the time of notarization;

2. Is not personally known to the Notary or identified by the Notary through satisfactory evidence;

3. Shows a demeanor which causes the Notary to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act; or

4. In the Notary's judgment, is not acting of his or her own free will.

C. Signature by Mark

A Notary may certify the affixation of a signature by mark on a document presented for notarization if:

1. The mark is affixed in the presence of the Notary and of two (2) witnesses unaffected by the document;

2. Both witnesses sign their own names beside the mark;

3. The Notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notary"; and

4. The Notary notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.

D. Signature by Third Party

A Notary may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:

1. The person directs the Notary to do so in the presence of two (2) witnesses unaffected by the document;

2. The Notary signs the person's name in the presence of the person and the witnesses;

3. Both witnesses sign their own names beside the signature;

4. The Notary writes below the signature: "Signature affixed by notary in the presence of (names and addresses of person and two (2) witnesses)"; and

5. The Notary notarizes the signature through an acknowledgment, jurat, or signature witnessing.

E. Disqualifications

A Notary is disqualified from performing a notarial act if the Notary:

1. Is a party to or named in the document that is to be notarized;

2. Will receive as a direct or indirect result any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees charged for the notary service.

3. Is a spouse, domestic partner, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives; or

4. Is an attorney who has prepared, explained, or recommended to the principal the document that is to be notarized.

F. Refusal to Notarize

1. A Notary shall not refuse to perform a notarial act based on race, advanced age, gender, sexual orientation, religion, national origin, health or disability, or status as a non-client or non-customer of the Notary or the Notary's employer.

2. A Notary shall perform any notarial act described in this Statute unless:

a. The Notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;

b. The act is prohibited under the Statute;

c. The number of notarial acts requested practicably precludes completion of all acts at once, in which case the Notary shall arrange for later completion of the remaining acts; or

3. A Notary may but is not required to perform a notarial act outside the Notary's regular workplace or business hours.

G. Avoidance of Influence

1. A Notary shall not influence a person either to enter into or avoid a transaction involving a notarial act by the Notary, except that the Notary may advise against a transaction if the Notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;

2. A Notary has neither the duty nor the authority to investigate, ascertain, or attest the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act.

H. False Certificate

1. A Notary shall not execute a certificate containing information known or believed by the Notary to be false.

2. A Notary shall not affix an official signature or seal on a notarial certificate that is incomplete.

3. A Notary shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the Notary's presence.

I. Improper Documents

A Notary shall not notarize a signature:

1. On a blank or incomplete document; or

2. On a document without notarial certificate wording.

3. A Notary shall neither certify nor authenticate a photograph.

J. Intent to Deceive

A Notary shall not perform any official action with the intent to deceive or defraud.

K. Testimonials

A Notary shall not use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering to make it appear as a tribal government endorsement.

L. Unauthorized Practice of Law

1. If notarial certificate wording is not provided or indicated for a document, a non-attorney notary shall not determine the type of notarial act or certificate to be used.

2. A non-attorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.

3. This section does not preclude a Notary who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field.

4. A Notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the authority to give legal advice.

(Source: WOS 2008-005, April 6, 2008, Section V)

6.2406 FEES OF NOTARY PUBLIC

A. Imposition and Waiver of Fees

1. For performing a notarial act, a Notary may charge the maximum fee specified in this Statute, charge less than the maximum fee, or waive the fee.

2. A Notary shall not discriminate in setting the fee of a notarial act but may waive or reduce fees for humanitarian or charitable reasons.

B. Fees for Notarial Acts.

1. The maximum fee that may be charged by a Notary for notarial acts is ten dollars ($10.00) for performing a notarial act. Additional fees for travel may be negotiated between the Notary and the client prior to the commencement of the travel.

2. These notarial acts include:

a. For acknowledgments, per signature;

b. For oaths or affirmations without a signature, per person;

c. For jurats, per signature;

d. For signature witnessing, per signature;

e. For certified copies, per document;

f. For verifications of fact, per certificate;

C. Payment Prior to Act

A Notary may require payment of any fees prior to performance of a notarial act and any fees paid to a Notary prior to performance of a notarial act are non-refundable if:

1. The act was completed; or

2. In the case of travel fees the act was not completed for reasons stated in

Section IV (F) after the Notary had traveled to meet the principal.

D. Fees of Employee Notary

1. An employer may prohibit an employee who is a Notary from charging for notarial acts performed on the employer's time, provided that the Notary shall not refuse to perform a notarial act based on the principal's race, advanced age, gender, sexual orientation, religion, national origin, health or disability, or status as a non-client or non-customer of the Notary or the Notary's employer.

2. A private employer shall not require an employee who is a Notary to surrender or share fees charged for any notarial acts.

3. A governmental employer who has absorbed an employee's costs in becoming or operating as a Notary shall require any fees collected for notarial acts performed on the employer's time either to be waived or surrendered to the employer to support public programs.

E. Notice of Fees

Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, a schedule of fees for notarial acts. No part of any notarial fee schedule shall be printed in smaller than ten (10) -point type.

(Source: WOS 2008-005, April 6, 2008, Section VI)

6.2407 SIGNATURE AND SEAL OF NOTARY PUBLIC

A. Official Signature

In notarizing a paper document, a Notary shall:

1. Sign by hand on the notarial certificate exactly and only the name indicated on the

notary's commission;

2. Not sign using a facsimile stamp or an electronic or other printing method; and

3. Affix the official signature only at the time the notarial act is performed.

B. Official Seal

1. A Notary shall keep an official seal that is the exclusive property of the Notary.

2. The seal shall not be possessed or used by any other person, nor surrendered to an employer upon termination of employment.

3. An image of the official seal shall be affixed by the Notary on every paper document notarized.

4. An image of the seal shall be affixed only at the time the notarial act is performed.

5. When not in use, the seal shall be kept secure and accessible only to the Notary.

6. Any seal image affixed by an adhesive label shall bear a preprinted sequential number which shall be recorded in the journal of notarial acts for its respective notarization.

7. Within ten (10) days after the seal of a notary is stolen, lost, damaged, or otherwise rendered incapable of affixing a legible image, the Notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Enrollment Office and also provide a copy or number of any pertinent police report. Upon receipt of such notice the Enrollment Office shall issue to the Notary a new Certificate of Authorization to Purchase a Notary Seal.

8. As soon as reasonably practicable after resignation, revocation, or expiration of a notary commission, or death of the notary, the seal shall be destroyed or defaced

so that it may not be misused.

C. Seal Image

Near the Notary's official signature on the notarial certificate of a paper document, the Notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal that shall include the following elements:

1. The Notary's name exactly as indicated on the commission;

2. The serial number of the Notary's commission;

3. The words "Notary Public" and "Tribe of Little Traverses Bay Bands of Odawa Indians" and "My commission expires (commission expiration date)";

4. The Notary's business address or residency; and

5. An embossed seal impression that is not photographically reproducible may be used in addition to but not in lieu of the seal.

D. Obtaining and Providing a Seal

In order to sell or manufacture notary seals, a vendor or manufacturer shall apply for a permit from the Enrollment Office, who shall charge a fee of fifty-dollars, ($50.00) for issuance of this permit. A vendor or manufacturer shall not provide a notary seal to a purchaser claiming to be a notary, unless the purchaser presents a photocopy of his or her notary commission and a Certificate of Authorization to Purchase a Notary Seal from the Enrollment Office, and unless:

1. In the case of a purchaser appearing in person, the vendor or manufacturer identifies this individual as the person named in the commission and the Certificate of Authorization, through either personal knowledge or satisfactory evidence of identity; or

2. In the case of a purchaser ordering a seal by mail or delivery service, the vendor or manufacturer confirms the business or residency mailing address through the Enrollment Office.

3. A vendor or manufacturer shall mail or ship a notary seal only to a mailing address confirmed through the Enrollment Office.

4. For each Certificate of Authorization to Purchase a Notary Seal, a vendor or manufacturer shall make or sell one and only one seal, plus, if requested by the person presenting the Certificate, one and only one embossing seal.

5. After manufacturing or providing a notary seal or seals, the vendor shall affix an image of all seals on the Certificate of Authorization to Purchase a Notary Seal and send the completed Certificate to the Enrollment Office, retaining a copy of the Certificate and the commission for six (6) years.

6. A Notary obtaining a seal or seals as a result of a name or business address change shall present a copy of the Confirmation of Notary's Name or Address Change from the Enrollment Office.

7. A vendor or manufacturer who fails to comply with this section may be found liable through Tribal Court and may be fined. Such liability shall not preclude the civil liability of the vendor to parties injured by the vendor's failure to comply with this section.

(Source: WOS 2008-005, April 6, 2008, Section VII)

6.2408 CERTIFICATES FOR NOTARIAL ACTS

A. General Acknowledgment

A Notary shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys in fact, or in other representative capacities:

Tribe of the Little Traverse Bay Bands of Odawa Indians
On this _____ day of _____, 20___, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me)
(proved to me through identification documents allowed by law, which were _____,) (proved to me on the oath or affirmation of _____, who
is personally known to me and stated to me that (he)(she) personally knows the document signer and is unaffected by the document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me that they personally know the document signer and are unaffected by the document,) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose(.)
(as partner for _____, a partnership.)
(as _____ for _____, a corporation.)
(as attorney in fact for _____, the principal.)
(as _____ for _____, (a)(the) _____.)
_____
(official signature and seal of notary)

B. Jurat

A Notary shall use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:
Tribe of the Little Traverse Bay Bands of Odawa Indians
On this _____ day of _____, 20___, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me)
(proved to me through identification documents allowed by law, which were _____,)
(proved to me on the oath or affirmation of _____, who is personally known to me and stated to me that (he)(she) personally knows the document signer and is unaffected by the
document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me
that they personally know the document signer and are unaffected by the document,) to be the person who signed the preceding or attached document in my presence and who swore or

affirmed to me that the contents of the document are truthful and accurate to the best of (his)(her) knowledge and belief.

_____

(official signature and seal of notary)

C. Signature Witnessing

A Notary shall use a certificate in substantially the following form in notarizing a signature or mark to confirm that it was affixed in the notary's presence without administration of an oath or affirmation.

Tribe of the Little Traverse Bay Bands of Odawa Indians

On this _____ day of _____, 20___, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me)

(proved to me through identification documents allowed by law, which were _____,)

(proved to me on the oath or affirmation of _____, who is personally known to me and stated to me that (he)(she) personally knows the document signer and is unaffected by the document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me that they personally know the document signer and are unaffected by the document,) to be the person who signed the preceding or attached document in my presence.

_____

(official signature and seal of notary)

D. Signer by Mark and Person Unable to Sign

On paper documents, any of the above mentioned certificates may be used for signers by mark or persons physically unable to sign or make a mark if:

1. for a signer by mark, the Notary and two (2) witnesses unaffected by the document observe the affixation of the mark, both witnesses sign their own names beside the mark, and the Notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names and addresses of two (2) witnesses) and undersigned notary.

2. for a person physically unable to sign or make a mark, the person directs the Notary to sign on his or her behalf in the presence of the person and two (2) witnesses unaffected by the document, both witnesses sign their own names beside the signature, and the Notary writes below the signature: "Signature affixed by notary in presence of (names and addresses of person and two (2) witnesses).

E. Certified Copy

A Notary shall use a certificate in substantially the following form in notarizing a certified copy:

Tribe of _____
On this _____ day of _____, 20___, I certify that the (preceding) (following)(attached) document is a true, exact, complete, and unaltered copy made by me of _____ (description of document), (presented to me by the document's custodian, _____,) (held in my custody as a notarial record,) and that, to the best of my knowledge, the copied document is neither a vital record, a public record nor a publicly recordable document, certified copies of which may be available from an official source other than a Notary.

_____
(official signature and seal of notary)

F. Verification of Fact

A Notary shall use a certificate in substantially the following form in verifying a fact:

Tribe of the Little Traverse Bay Bands of Odawa Indians
On this _____ day of _____, 20___, I certify that I have reviewed the following record(s), (a) _____,
(b) _____,
(c) _____,
(d) _____,
at the following offices, respectively,
(a) _____,

(b) _____,
(c) _____,
(d) _____,
or upon the records' presentation to me by _____,
and hereby verify the following facts as stated in these records:
(a) _____,
(b) _____,
(c) _____,
(d) _____.
(official signature and seal of notary)]

(Source: WOS 2008-005, April 6, 2008, Section VIII)

6.2409 EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT

A. Forms of Evidence

On a notarized document sent to another state or nation, evidence of the authenticity of the official seal and signature of a Notary of this Tribe, if required, shall be in the form of:

1. A certificate of authority from the Enrollment Office.

B. Certificate of Authority

A certificate of authority evidencing the authenticity of the official seal and signature of a Notary of this Tribe shall be substantially in the following form:

Certificate of Authority for a Notarial Act
I, _____ (name, title, jurisdiction of authenticating official), certify that _____ (name of notary), the person named in the seal and signature on the attached document, was a Notary Public for the Tribe of the Little Traverse Bay Bands of Odawa Indians and authorized to act as such at the time of the document's notarization. To verify this Certificate of Authority for a Notarial Act, I have affixed below my signature and seal of office this _____ day of _____, 20___. (Signature and seal of commissioning official)

C. Fees

The Enrollment Office may charge for issuing a certificate of authority, ten dollars ($10.00).

(Source: WOS 2008-005, April 6, 2008, Section IX)

6.2410 CHANGES OF STATUS OF NOTARY PUBLIC

A. Change of Address

Within ten (10) days after the change of a Notary's residence, business, or mailing address, the Notary shall send to the Enrollment Office a signed notice of the change, giving both old and new addresses and shall not notarize until a new seal bearing the new business address has been obtained; and the surety for the Notary's bond has been informed in writing.

B. Change of Name

Within ten (10) days after the change of a Notary's name by court order or marriage, the Notary shall send to the Enrollment Office a signed notice of the change, giving both former and new names, with a copy of any official authorization for such change and shall not notarize until a new seal bearing the new name has been obtained; and the surety for the Notary's bond has been informed in writing.

C. Resignation

A Notary who resigns his or her commission shall send to the Enrollment Office a signed notice indicating the effective date of resignation.

1. Notaries who cease to reside in or to maintain a regular place of work or business within the reservation of the Tribe shall resign their commissions.

2. Notaries who are no longer a Tribal Citizens of the LTBB or another Federally Recognized Tribe or an employee of the LTBB shall resign their

commissions.

3. Notaries who are no longer a legal resident of the United States or who become permanently unable to perform their notarial duties shall resign their commissions.

D. Disposition of Seal

When a Notary commission expires or is resigned or revoked, the Notary shall as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused.

E. Death of Notary

If a Notary dies during the term of commission, the Notary's personal representative shall:

1. Notify the Enrollment Office of the death in writing;

2. As soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused.

(Source: WOS 2008-005, April 6, 2008, Section X)

6.2411 LIABILITY, SANCTIONS, AND REMEDIES FOR IMPROPER ACTS

A. Liability of Notary, Surety, and Employer

1. A Notary is liable to any person for all damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in relation to a notarization.

2. A surety for a Notary's bond is liable to any person for damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in relation to a notarization during the bond term, but this liability may not exceed the dollar amount of the bond or of any remaining bond

funds that have not been disbursed to other claimants. Regardless of the number of claimants against the bond or the number of notarial acts cited in the claims, a surety's aggregate liability shall not exceed the dollar amount of the bond.

3. An employer of a Notary is liable to any person for all damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in performing a notarization during the course of employment, if the employer directed, expected, encouraged, approved, or tolerated the Notary's negligence, violation of law, or official misconduct either in the particular transaction or, impliedly, by the employer's previous action in at least one similar transaction involving any Notary employed by the employer.

4. An employer of a Notary is liable to the Notary for all damages recovered from the Notary as a result of any violation of law by the Notary that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization or, impliedly, by the employer's previous action in at least one similar transaction involving any Notary employed by the employer. In addition, the employer is liable to the Notary for damages caused the Notary by demotion, dismissal, or other action resulting from the Notary's refusal to engage in a violation of law or official misconduct.

5. Notwithstanding any other provision in this Statute, for the purposes of this section "negligence" shall not include any good-faith determination made by the Notary.

B. Proximate Cause

Recovery of damages against a Notary, surety, or employer does not require that the Notary's negligence, violation of law, or official misconduct be either the sole or principal proximate cause of the damages.

C. Revocation

1. The Enrollment Office shall revoke a Notary's commission for:

a. Failure to maintain a residence or a regular place of work or business within the Tribal Reservation;

b. Failure to maintain status as a legal resident of the United States;

c. Failure to maintain status as a Tribal Citizen of the LTBB or another Federally Recognized Tribe or an employee of LTBB;

d. A conviction of a felony or of a substantially corresponding violation of another tribe or state on the date that the person's felony conviction is entered.

e. A conviction of two (2) or more misdemeanor offenses involving a violation of this act within a 12-month period while commissioned, or of three (3) or more misdemeanor offenses involving a violation of this act within a five (5)-year period.

f. A sentence of imprisonment in a correctional facility or jail in this or any other tribal, state or federal correctional facility.

g. Prior to revocation of a Notary's commission, the Enrollment Office shall inform the Notary of the basis for the revocation and that the revocation takes effect on a particular date unless a proper appeal is filed with the Tribal Court before that date.

2. Resignation or expiration of a notary commission does not terminate or preclude an investigation into the Notary's conduct by the Enrollment Office, who may pursue the investigation to a conclusion, whereupon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.

D. Warning or Injunction for Misconduct

The Enrollment Office may deliver a written Official Warning to Cease Misconduct to any

Notary whose actions are judged to be official misconduct or may seek a court injunction to prevent a person from violating any provision of this Statute.

E. Publication of Sanctions and Remedial Actions

The Enrollment Office shall regularly publish a list of persons whose notary commissions have been revoked by the Enrollment Office or Tribal Court or whose actions as a Notary were the subject of a court injunction or Official Warning to Cease Misconduct on the Tribal web-site and newsletter.

F. Potential Civil Infractions

In performing a notarial act, a Notary is liable of a civil infraction upon finding by the Little Traverse Bay Bands of Odawa Indians Tribal Court that may include a fine for knowingly:

1. Failing to require the presence of a principal at the time of the notarial act;

2. Failing to identify a principal through personal knowledge or satisfactory evidence;

3. Executing a false notarial certificate;

4. A Notary who knowingly performs or fails to perform any other act prohibited or mandated respectively by this statute;

5. Performing a notarial act after his or her commission is revoked.

G. Additional Remedies and Sanctions Not Precluded

The remedies and sanctions of this Statute do not preclude other remedies and sanctions provided by law.

H. Violations by Non-Notary

A person found liable for a civil infraction under this section by the Little Traverse Bay Bands of Odawa Indians Tribal Court may be fined.

1. Impersonation

Any person not a Notary who knowingly acts as or otherwise impersonates a Notary.

2. Wrongful Possession

Any person, who knowingly obtains, conceals, defaces, or destroys the seal or official records of a Notary.

3. Improper Influence

Any person who knowingly solicits, coerces, or in any way influences a Notary to commit official misconduct.

I. Additional Sanctions Not Precluded

The sanctions of this chapter do not preclude other sanctions and remedies provided by law.

(Source: WOS 2008-005, April 6, 2008, Section XI)

6.2412 PROHIBITION ON FOREIGN JURISDICTIONS

Employees of the LTBB are prohibited from performing foreign jurisdiction (other States or Tribal) Notorial acts in conjunction with their employment with LTBB beyond 360 days after the enactment of this Statute.

(Amended by WOS 2008-005, October 19, 2008)

6.2413 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-005, April 6, 2008, Section XIII)

6.2414 EFFECTIVE DATE

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

(Source: WOS 2008-005, April 6, 2008, Section XIV)

Chapter 25. Land and Reservation

6.2401 SHORT TITLE, PURPOSE AND DEFINITIONS

A. Short Title

This statute shall be entitled “The Land and Reservation.”

B. Purpose

The Land and Reservation Statute shall provide a process on how recommendation regarding land and reservation are ascertained, shall establish a Standing Committee of the Tribal Council with powers and authority, shall provide for the ability of the Committee to interact with the Judiciary and Executive on matters relating to land and reservation and shall define such powers and duties not explicitly enumerated in the LTBB Constitution related to land and reservation.

C. Definitions

As used in this Statute:

1. "Committee" shall mean "Tribal Council Land and Reservation Standing Committee".

2. "LTBB" mean the Little Traverse Bay Bands of Odawa Indians or the Waganakising Odawa.

3. "Reservation" in accordance with Little Traverse Bay Bands of Odawa Indians Constitution, Article III, Section H, *means the lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Art I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of Interior.*

(Source: WOS 2008-002, February 15, 2008, Section I)

6.2502 DUTIES AND AUTHORITY OF THE TRIBAL COUNCIL

A. The Tribal Council has the following LTBB Constitutional powers regarding land and reservation:

- *Purchase, receive by gift, or otherwise acquire land, interests in land, personal property or other intangible assets which the Tribal Council may deem beneficial to the Little Traverse Bay Bands of Odawa Indians.*

- *Request lands be placed in trust with the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians when the Tribal Council deems this beneficial to the Tribe.*

- *Approve land use plans and zoning of lands subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians.*

- *Approve leases for Tribally owned land and lands held in trust for the Little Traverse Bay Bands of Odawa Indians by the United States subject to the approval of the Secretary of the Interior if required by Federal law.*

- *Approve all sales, or dispositions of Tribal lands, provided that such sale or disposition must also be approved by a majority vote by referendum, or by a quorum at an annual membership meeting.*

B. The Tribal Council shall create a standing committee of the Tribal Council to advise and make recommendations to the Tribal Council on matters related to above listed Constitutional land and reservation powers.

C. The Tribal Council may employ staff, legal counsel and/or consultants regarding the above listed Constitutional land and reservation powers.

(Source: WOS 2008-002, February 15, 2008, Section II)

6.2503 CREATION OF THE COMMITTEE

A. The Tribal Council hereby creates the Land and Reservation Standing Committee of the Tribal Council and its membership shall consist of three (3) Tribal Council members assigned by motion and majority vote at a regularly scheduled Tribal Council meeting.

B. The Committee Chair shall be decided amongst the members of the Committee.

(Source: WOS 2008-002, February 15, 2008, Section III)

6.2504 DUTIES OF THE COMMITTEE

A. The Committee shall develop policies, processes, and procedures to carry out its duties.

B. The Committee shall develop a strategic plan for Land and Reservation that outlines the goals and objective for the next two to five years to be presented to Tribal Council for approval.

C. The Committee shall hold meetings as necessary to carry out its authorized functions and duties and may hold executive sessions in accordance with the *Open Meetings Statute.*

D. The Committee shall not obligate or encumber the Tribe in any manner.

E. The Committee shall comply with approved meeting and hearing procedures which in the absence shall not impede progress of the committee;

F. The Committee shall make recommendations and advise the Tribal Council on matters related to land and/or reservation.

G. The Committee shall make known to the Tribal Council all Land and Reservation matters brought before it.

H. Tribal Council shall approve or disapprove the recommendations of the Committee by a majority vote of Tribal Council.

I. The Committee shall ensure that it maintains confidentiality involving land and reservation matters that may involve litigation, confidential business or legal matters, or other matters that raise significant privacy or confidentiality concerns.

(Source: WOS 2008-002, February 15, 2008, Section IV)

6.2505 AUTHORITY OF THE COMMITTEE

A. The Committee may hold public hearings and solicit Tribal Citizen input on any and all matters within their authority and duties.

B. The Committee shall have the authority to request documents and information related to land and reservation from the Judiciary and Executive Departments, Programs and staff; including legal counsel and consultants.

(Source: WOS 2008-002, February 15, 2008, Section V)

6.2506 COMPENSATION

Committee members and Tribal Council members shall be compensated in accordance with the Tribal Council's Stipend Policy for attendance at Land and Reservation meetings that are scheduled in advance and posted.

(Source: WOS 2008-002, February 15, 2008, Section VI)

6.2507 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-002, February 15, 2008, Section VII)

6.2508 EFFECTIVE DATE

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

(Source: WOS 2008-002, February 15, 2008, Section VIII)

Chapter 26. Process for Appropriations of Supplemental Funding

6.2601 PURPOSE

The purpose of this Statute is to establish the process for a supplemental funding request by the Executive, Legislative, Judiciary, Prosecutor or Election Board for additional funding requested beyond the original amount appropriated by the *Tribal Government Budget Formulation Process.*

(Source: WOS 2008-004, March 24, 2008, Section I)

6.2602 DEFINITIONS

A. "Budget Modification" means a budget shift from one line item to another within the allocated departmental budget or account.

B. "Committee" means the Appropriations and Finance Standing Committee of the Tribal Council.

C. "Deficiency Budgets" means that within a departmental budget or account the expenditures exceed the allotted funds.

D. "Emergency" means a matter that meets all of the following criteria:

1. Necessary expenditure – an essential or vital expenditure;
2. Sudden – quickly coming into being, not building up over time;
3. Urgent – pressing and compelling need requiring immediate action;
4. Unforeseen – not predictable or seen beforehand as a coming need;
5. Not permanent – the need is temporary in nature; and
6. Dire – for the preservation of the interest of the Tribe, human life or property.

E. "Specific additional service or program" means unanticipated program or service that would enhance the Tribe or benefits for Tribal Members that was not available at the time of the Tribal Government Budget Formulation Process.

F. "Rescissions" means a regimen of automatic spending cuts to offset deficiency budgets within a governmental division based on a percentage of equal cuts across the board for each department and program.

G. "Required Signature(s)" means the appropriate signatures and approval within the Governmental Division.

H. "Transfers" mean budgetary shifts from one departmental budget or account to another department or account within the same governmental division and same funding source.

I. "Tribal Council" means the elected Legislative body of the Tribe.

(Source: WOS 2008-004, March 24, 2008, Section II)

6.2603 REQUESTS FOR ADDITIONAL FUNDING

A. All requests for additional funding shall be reviewed by the Appropriation and Finance Committee prior to being submitted to the Tribal Council.

B. A request for supplemental funding shall include the following information:

1. The reason for the requested supplemental funding:
   a. Emergency
   b. Specific additional service or program
   c. Deficiency budget;

2. A brief narrative;
3. The amount requested;
4. Required signatures; and
5. From where the funding is being requested, i.e. "prior year funds".

C. All requests must be received three (3) business days prior to a Regular Meeting of the Committee.

D. Special Committee meetings may be called for emergency funding requests.

(Source: WOS 2008-004, March 24, 2008, Section III)

6.2604 RECOMMENDATIONS BY THE COMMITTEE

A. All requests for supplemental funding shall be presented first to the Committee for approval or rejection prior to being presented to the Tribal Council.

B. The Committee shall make recommendations of the amount of funding or to reject the request for supplemental funding and shall make same known to Tribal Council at its regular meeting.

C. Tribal Council shall approve or disapprove the recommendations of the Committee by a majority vote of Tribal Council members.

(Source: WOS 2008-004, March 24, 2008, Section IV)

6.2605 BUDGET MODIFICATIONS, TRANSFERS AND RECISSIONS

A. Budget Modifications and Rescissions do not need approval of the Committee or Tribal Council.

B. A Transfer can be made provided that it does not exceed fifteen percent (15%) of the total departmental budget and it does not create a new service or program, nor does it cause a material change in an existing service or program by altering the nature or scope of the service or program.

C. All other Transfers would require a recommendation by the Committee and Tribal Council approval by a majority vote of the Tribal Council.

(Source: WOS 2008-004, March 24, 2008, Section V)

6.2606 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, laws or ordinances of the

Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-004, March 24, 2008, Section VI)

6.2607 EFFECTIVE DATE

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

(Source: WOS 2008-004, March 24, 2008, Section VII)

Chapter 27. Liquor and Tobacco Licensing Board Statute

6.2701 SHORT TITLE

This Statute may be cited as the "Licensing Board."

(Source: WOS 2009-019, July 26, 2009, Section I)

6.2702 PURPOSE

The purpose of this Statute is to provide for the establishment of the Liquor and Tobacco Licensing Board that issues, renews and regulates liquor and tobacco licenses and permits in order to protect the rights and interest of Tribal Citizens.

(Source: WOS 2009-019, July 26, 2009, Section II)

6.2703 DEFINITIONS

The following definitions apply in this Statute:

A. "Alcoholic Liquor" means the four varieties of liquor (alcohol, spirits, wine and beer) and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquor or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

B. **"**Board" means the Liquor and Tobacco Licensing Board.

C. "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the grater part made of natural leaf tobacco in its natural state.

D. "Licensee" means any person or entity, includes any employee or agent of the Licensee, licensed by the Tribe to sell alcohol or tobacco on Tribal trust lands.

E. "LTBB" or "Tribe" means the Waganakising Odawak Nation, also known as the Little Traverse Bay Bands of Odawa Indians.

F. "Person" or "Entity" means any individual, firm, partnership, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

G. "Tobacco Products" means all forms of tobacco prepared in such a manner at to be suitable for chewing or smoking including cigarettes, cigars, smoking tobacco, snuff, chewing tobacco.

H. "Tribal Court" means the Little Traverse Bay Bands of Odawa Tribal Court.

(Source: WOS 2009-019, July 26, 2009, Section III)

6.2704 LIQUOR AND TOBACCO LICENSES

A. Any person or entity that shall engage in the sale of alcohol or tobacco within the jurisdiction of the Tribe shall first obtain a license for such sale, provided that any person or entity engaging in such sales prior to the adoption of this Statute shall obtain a license within sixty (60) days for the enactment of this Statute.

B. A license shall be valid for a period of one (1) year from the date of its issuance and shall expire automatically without notice on the expiration date stated in the license.

C. No license shall be transferable.

D. Temporary licenses for a limited time-frame and purpose may also be available.

(Source: WOS 2009-019, July 26, 2009, Section IV)

6.2705 LIQUOR AND TOBACCO LICENSING BOARD

A. The Liquor and Tobacco Licensing Board ("Board") is hereby created within the Executive Branch to carry out the purposes stated in this Statute, and each annual budget submitted by the Executive shall include funding for the Board's operation subject to funding availability.

B. The Board shall adopt policies and regulation to carry out its duties under this Statute, subject to Tribal Council approval. General application of Commission, Board and Committee Statutes shall not apply to this board unless designated otherwise.

C. The Board shall meet once a year in regular meetings and additionally if necessary within 15 days of receiving any request for action by the Board.

D. Appointments, Term, Nepotism and Conflict

1. The Board shall consist of three (3) members nominated by the Executive and confirmed by the Tribal Council. To be eligible for appointment a person must be a Tribal Citizen who is at least eighteen (18) years of age and is familiar with all Tribal liquor and tobacco laws, regulations, policies and procedures. One Board member will have at least 2 years experience in law enforcement, legal or

judiciary. The Board members shall serve three year terms with initial appointments being one member for one year, a second member for two years, and a third for three years to provide for staggered terms.

2. Tribal employees may serve on the Board and may be compensated by stipend if the Board is not directly related to their employment, does not interfere with their work, and does not meet during scheduled work hours. If a Board meets during scheduled working hours and the staff member wishes to attend, the staff member must utilize PTO (personal time off), or flextime upon prior approval of the individual's supervisor.

3. Two or more members of the same immediate family as defined in the Constitution shall not serve on the Board at the same time.

4. No Board member may participate in making any decision that involves a personal or financial interest of the Board or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

E. Open Meetings and Records

1. Board meetings shall be open to LTBB Citizens.

2. Board records shall be open to LTBB Citizens.

3. The Board must provide notice of meetings at least five days in advance of the meeting.

F. Compensation and Stipends

1. Board members who attend any meeting or hearing directly related to their duties or attend any event where their attendance is required may be compensated for attendance so long as there are funds available in the Board's budget.

2. Board members shall receive a stipend for attendance at Board meetings subject to the availability of funds.

3. Any Board member who attends a properly noticed meeting shall be eligible for a stipend, mileage, and expenses, even if no official action can be taken due to lack of a quorum.

(Source: WOS 2009-019, July 26, 2009, Section V)

6.2706 AUTHORITY

A. The Board shall hear and decide the granting, denial or renewal of licenses and permits.

B. The Board shall hear and decide on the suspension or revocation of a license based on citations of violations.

C. The Board shall hear and decide appeals on the issuance of citations.

D. The Board may hire inspectors or investigators provided funding availability.

(Source: WOS 2009-019, July 26, 2009, Section VII)

6.2707 APPEALS OF CITATIONS TO THE BOARD

A. Any party who has received an issuance of citations and disagrees with the citation may appeal to the Board.

1. An appeal of a citation must be filed within fourteen (14) days of the issuance of the citation. The party must file a written appeal to the Board including at a minimum:

a. A clear and concise statement of the reason(s) the appellant believes the decision should be overturned by the Board; and

b. The relief requested from the Board.

B. The aggrieved party must be given an effective opportunity to defend themselves by confronting any adverse witnesses and by being allowed to present witnesses, evidence and arguments.

C. The Board shall hear the appeal within 15 calendar days of filing, either during a regular meeting or special meeting called for that purpose, and issue its written ruling within ten (10) days of such hearing.

(Source: WOS 2009-019, July 26, 2009, Section VIII)

6.2708 JUDICIAL REVIEW

A. Decisions of the Board may be appealed to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Board's ruling. The Court shall uphold the decision of the Board unless the Court determines that the Board's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

B. The Tribal Council expressly waives the sovereign immunity of the Tribe and its agents for the limited purpose of reviewing the decisions of the Board under the standards set forth in Section VI.A and allowing for the remedies set forth in Section VI.C.

C. In the event the Court finds the Board's decision to be clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations, it shall enter an equitable order overturning the Board's action, but shall not award monetary damages.

(Source: WOS 2009-019, July 26, 2009, Section IX)

6.2709 SOVERIEGN IMMUNITY

The Tribe, and all of its constituent parts, which includes but is not limited to Tribal enterprises, subordinate organizations, boards, committees, officers, employees and agents, are immune from suit in any jurisdiction except to the extent that such immunity has been clearly and expressly waived by Tribe Council.

(Source: WOS 2009-019, July 26, 2009, Section X)

6.2710 REGULATIONS

The Executive may develop Regulations as it deems necessary for the implementation of the

intent of this Statute and shall forward such Regulations to the Tribal Council for approval.

(Source: WOS 2009-019, July 26, 2009, Section XI)

6.2711 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.

(Source: WOS 2009-019, July 26, 2009, Section XII)

6.2712 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2009-019, July 26, 2009, Section XIII)

Chapter 28. Traditional Tribal Burial Grounds

6.2801 PURPOSE

The purpose of this Statute is to establish the law that governs lands set aside for Traditional Tribal Burials, the sale of burial plots, burial eligibility and the maintenance of the grounds.

(Source: WOS 2009-018, July 26, 2009, Section I)

6.2802 POLICY INTENTION

A. The Traditional Tribal Burial Grounds are intended for natural burials. The intent of this Statute is to minimize the impact of burials on the planet. Thus, promoting traditional styles of

burials where chemical preservatives are not used and only biodegradable materials are used for caskets and unobtrusive grave markers.

B. The Tribe encourages the use of markers that don't intrude on the landscape. These natural markers can include shrubs and trees, or an engraved flat stone native to the area. The planting of native trees, shrubs and flowers on or near the grave establishes a living memorial and helps form a wildlife area.

C. A Traditional Tribal Burial Grounds is a green place with trees, grasses, and wildflowers, which in turn bring birds and other wildlife to the area.

D. The Traditional Tribal Burial Grounds are a statement of personal values for many people who recognize the Circle of Life and that life is cyclical in nature.

(Source: WOS 2009-018, July 26, 2009, Section II)

6.2803 DEFINITIONS

E. "*Burial Ground*" means the land set aside for the specific purpose of earth interments;

F. *"Burial Right"* means a right of earth interment.

G. *"Embalming"* means a process for using preservatives in order to prevent decay of a body.

H. *"Interment"* means the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment or burial.

I. *"Plot"* means a space of sufficient size to accommodate an interment.

J. *"Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means "areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries *of the reservations for the Little Traverse Bay Bands as set out in Article I,*

paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621." Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

K. *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians.

H. *"Vault"* means a lined and sealed unit, generally made of cement, for placement of a casket to prevent the concave of earth after a period of time.

(Source: WOS 2009-018, July 26, 2009, Section III)

6.2804 AUTHORIZATION OF BURIAL ARRANGEMENTS

Burial arrangements shall only be authorized by a person designated in a written instrument signed by the decedent, if none designated then by a sworn statement attesting to the authority. Neither the Tribe nor Burial Board shall be required to inquire into the truth of the statement in the sworn statement and shall not be held liable for any unauthorized activities.

(Source: WOS 2009-018, July 26, 2009, Section IV)

6.2805 EMBALMING

A. Embalming is not required for interment in the Tribal Burial Grounds, except when the burial or cremation does not take place within 48 hours of death or if the deceased had certain communicable diseases.

B. The time period of 48 hours starts at the time of death of the deceased.

C. Embalming may be required if the deceased needs to be transported out-side of the Tribal Territorial jurisdiction.

(Source: WOS 2009-018, July 26, 2009, Section V)

6.2806 BURIALS

No burial may take place until a Death Certificate has been issued.

(Source: WOS 2009-018, July 26, 2009, Section VI)

6.2707 CASKETS OR CONTAINERS

Neither a vault nor casket shall be allowed for a Traditional Tribal Burial. Containers may be required provided that wooden burial containers or cultural containers are acceptable.

(Source: WOS 2009-018, July 26, 2009, Section VII)

6.2708 GRAVE MARKERS

A. No permanent raised markers shall be allowed in the Traditional Tribal Burial grounds.

B. Raised markers may be used if made of natural deteriorating items such as wood or other natural materials.

C. Permanent non-raised items may be used such as stone or granite markers.

D. Markers may be represented by small plants or shrubs or non-evasive flora.

E. Deteriorating decorations such as crepe paper-wreaths and other cultural objects may be allowed in the Traditional Tribal Burial Grounds.

(Source: WOS 2009-018, July 26, 2009, Section VIII)

6.2809 ACTIVITIES AND CEREMONIES

Tribal Ceremonies and activities that honor the deceased may be performed in the Tribal Burial Grounds.

(Source: WOS 2009-018, July 26, 2009, Section IX)

6.2810 BURIAL RECORDS

A. A record shall be kept of all interments of which shall include:

1. Name of Deceased
2. Place of death
3. Name of Funeral Director, if any
4. Place of interment
5. Copy of Death Certificate

(Source: WOS 2009-018, July 26, 2009, Section X)

6.2811 TRIBAL BURIAL BOARD

A. A Burial Board shall be established by Tribal Charter Corporation approved by Tribal Council and shall manage the Tribal Burial Ground and through approved regulations for the following areas:

1. The use, care, control, management, restriction, and protection of the burial ground operated by the burial ground organization;

2. Restrict the use of burial ground property;

3. Regulate the placement, uniformity, class, and kind of markers, and other structures in any part of the burial ground;

4. Regulate the planting and care of plants in the burial ground;

5. Prevent the interment of remains not entitled to be interred in the burial ground;

6. Prevent the use of a plot for a purpose that violates the burial ground board's restrictions;

7. Regulate the conduct of persons on burial ground property and to prevent improper meetings at the burial ground; and

8. Other purposes for the protection of the premises and the principles, plans, and ideals on which the burial ground was organized.

B. The Board shall file with the map or plat a written certificate or declaration of dedication of the property delineated by the map or plat, dedicating the property exclusively to burial ground purposes.

(Source: WOS 2009-018, July 26, 2009, Section XI)

6.2812 TRADITIONAL TRIBAL BURIAL GROUNDS

The Traditional Tribal Burial Ground shall contain and encompass all lands designated and approved by Tribal Council as a Traditional Tribal Burial Ground.

(Source: WOS 2009-018, July 26, 2009, Section XII)

6.2813 SALE OF PLOTS

A. Only the Burial Board may sell and convey the exclusive right of burial in a plot.

B. Rights in burial plots may not be re-conveyed from an individual to another individual, unless there is prior approval by the Burial Board.

C. An individual may convey or sell back the burial plot to the Burial Board.

(Source: WOS 2009-018, July 26, 2009, Section XIII)

6.2814 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-018, July 26, 2009, Section XIV)

6.2815 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2009-018, July 26, 2009, Section XV)

Chapter 29. Asset Disposition

6.2901 PURPOSE

The purpose of this Statute is to establish the law that governs the encumbrance of Tribal lands, the encumbrance of intangible assets and the encumbrance and disposition of non-real estate tangible assets in accordance with the Little Traverse Bay Bands Constitution.

(Source: WOS 2009-022, July 26, 2009, Section I)

6,2902 POLICY INTENTION

The intent of this Statute is to provide the minimum standards for the disposal of assets and the subsequent reporting in financial records.

(Source: WOS 2009-022, July 26, 2009, Section II)

6.2903 DEFINITIONS

A. *"Book value"* or "net book value" means historical cost of a capital asset less any related accumulated depreciation.

B. *"Capital Asset"* means tangible property which cannot easily be converted into cash and which is usually held for a long period, including equipment.

C. *"Competitive Bidding"* means a transparent process for disposal of an asset which may include soliciting bids, competitive negotiation using a request for proposals, fixed pricing, public auctions, on-line auctions or sealed bids.

D. *"Disposal"* means to relinquish ownership of an asset in a conclusive manner by sale, exchange, transfer, involuntary conversion, abandonment or donation.

E. *"Donation"* means property that may be used for other tribal purposes that will benefit Tribal Citizens in the areas of social, educational, cultural and health activities.

F. *"Intangible Asset"* means something of value that cannot be physically touched, such as a brand, franchise, trademark, or patent.

G. *"Real Property"* means land and things permanently attached to the land, such as trees, buildings, and stationary mobile homes.

H. *"Surplus property"* means tangible personal property, including minor equipment, office furniture, computer equipment, vehicles, and items determined to be obsolete, over stocked or no longer need by the owner.

I. *"Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means "areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

J. *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2009-022, July 26, 2009, Section III)

6.2904 DISPOSAL OF CAPITAL ASSETS

A. Capital assets retired from service shall be disposed of in the most efficient and cost effective manner possible.

B. Capital assets shall be disposed of in a manner that is environmentally responsible.

C. Capital assets with a book value greater than $10,000 shall be disposed of by competitive bidding. All other assets may be deemed as surplus.

(Source: WOS 2009-022, July 26, 2009, Section IV)

6.2905 DISPOSAL OF TANGIBLE PROPERTY

A. Tangible personal property shall be designated as surplus.

B. Any surplus shall be disposed of without warranty.

C. Surplus property shall be disposed of by either competitive bidding, by donation or by disposal.

D. Surplus property shall be disposed of in a manner that is environmentally responsible.

E. Information technology and communication equipment shall have all data and software removed from the equipment prior to disposal.

(Source: WOS 2009-022, July 26, 2009, Section V)

6.2906 DISPOSAL OF REAL PROPERTY

Disposal of real property shall have prior approval by Tribal Council in accordance with the Constitutional requirements.

(Source: WOS 2009-022, July 26, 2009, Section VI)

6.2907 DISPOSAL OF INTANGIBLE ASSETS

Disposal of intangible property shall have prior approval by Tribal Council.

(Source: WOS 2009-022, July 26, 2009, Section VII)

6.2908 FIRST REFUSAL

All capital assets and tangible property shall be offered to governmental departments and enterprises before disposal by any other method.

(Source: WOS 2009-022, July 26, 2009, Section VIII)

6.2909 REGULATIONS

The Executive may develop Regulations as it deems necessary for the implementation of the intent of this Statute and shall forward such Regulations to the Tribal Council for approval.

(Source: WOS 2009-022, July 26, 2009, Section IX)

6.2910 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-022, July 26, 2009, Section X)

6.2911 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2009-022, July 26, 2009, Section XI)

TITLE VII. ECONOMIC DEVLOPMENT

Chapter 1. A Plan for the Use of the Little Traverse Bay Bands of Odawa Indians' Judgment Fund Distribution

7.101 PURPOSE

This Plan has been developed as a result of the Indian Claims commission dockets numbered 18-E, 58, 364 and the passage of Public Law 105-143, signed into law on December 15, 1997, and provides for the disbursal of judgment funds to the Little Traverse Bay Bands of Odawa Indians of Michigan. Pursuant to this law, the Little Traverse Bay Bands of Odawa Indians must submit a plan for the use of the funds to the Secretary of Interior. The Secretary shall review the plan and discuss any problems with the Tribe. After this review, the plan shall be submitted to Congress prior to the distribution of any of these funds to the Tribe.

The Plan was developed by the Tribe to use monies wisely for the Tribe's current and future well being, and to preserve its culture and history. This plan also meets all of the criteria for the Secretary and Congressional approval, including:

A. The needs and desires of any groups or individuals who are in a minority position, but who are also entitled to receive such funds, have been fully ascertained and considered;

B. The interests of minors and other legally incompetent persons who are entitled to receive any portion of such funds; and

C. Any provision, including enrollment provisions, of the constitution, bylaws, rules, and procedures of such tribe which may affect the distribution or other use of such funds are in full accord with the principles of fairness and equity.

(Source: 1998007, March 13, 1998, Section I)

7.102 SOVEREIGN IMMUNITY

Nothing in this plan shall provide, or be interpreted to provide, a waiver of the sovereign immunity from suit of the Little Traverse Bay Bands of Odawa Indians or any of its governmental officers and/or agents.

Nothing in this plan shall create a duty of financial obligation on the part of the Little Traverse Bay Bands of Odawa Indians or any of its officers and/or agents to provide judgment fund distribution shares to an individual who alleges that he/she did not receive a per capita distribution share; provided, however, that the Little Traverse Bay Bands of Odawa Indians must show:

A. The individual's name does not appear on any of the rolls authorized under the Tribal enrollment requirements and time requirements of this plan; or

B. The individual's name: (A) appeared on one of the rolls authorized under Tribal enrollment requirements and time requirements of this plan; and, (B) a copy of the per capita share documentation is returned by the Tribal Administration as proof of distribution to the last known address of the individual entitled to a per capita share.

(Source: 1998007, March 13, 1998, Section II)

7.103 DESCRIPTION OF TRUST FUNDS

A. **Land Claims Distribution Trust Fund**. The share of the Little Traverse Bay Bands of Odawa Indians of Michigan (hereafter in this section referred to as the ''Bands''), as determined pursuant to subsections (a)(4) and (b)(4) of section 104 of Public Law 105-143, shall be deposited by the Secretary in a trust fund to be established by the Tribal Council of the Bands to

be known as the ‘‘Land Claims Distribution Trust Fund’’ (hereafter in this section referred to as the ‘‘Trust Fund’’).

The principal of the Trust Fund shall consist of:

1. the funds deposited into the Trust Fund by the Secretary pursuant to this subsection;

2. such annual earnings of the Trust Fund which shall be retained, and added to the principal;

3. such other funds as may be added to the Trust Fund by action of the Tribal Council of the Bands.

B. Management of the Trust Fund. The Tribal Council of the Little Traverse Bay Bands of Odawa Indians will enact a statute creating a Trust Fund Board.

1. The Trust Fund Board (hereafter in this section referred to as the “Board”) will be appointed by Tribal Council in accordance with the procedures established in the statute. The Board shall be the trustee of the Trust Fund and shall administer the Fund in accordance with this section. In carrying out this responsibility, the Board may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Fund and charged against the earnings of the fiscal year in which the payment becomes due.

2. The Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant that shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Bands.

3. The Board will create Share Certificates. The face value of each Share Certificate shall be calculated by the following two steps:

a. By dividing 80 % of the total dollar amount of the distribution from the United States on the date of such distribution by the number of Tribal members who are eligible to participate in the distribution under section 3(g) [WOTC 7.103(G)] of this Plan, and

b. This amount will then be divided by two to determine the amount of each Share Certificate. The estimated value of each Share Certificate is $2,000 but the exact amount will depend on the exact amount of the distribution and number of members eligible to participate in the distribution. Each eligible member will receive two Share Certificates, which added together will be worth approximately $4,000. Each eligible member will have the option of immediately redeeming one or both of their Share Certificates, or leaving one or both of their Share Certificates in the Trust Fund. Share Certificates are redeemable at no more than face value unless they are left in the Trust Fund for ten years or until the Trust Fund reaches the value of the total amount of the original distribution from the United States, at which point each unredeemed Share Certificate will be worth $500 more than its original face value.

C. Minor, Legal Incompetent and Incarcerated Person's Trust Fund.

1. Tribal Council shall establish a separate trust fund with segregated amounts equal to each minor, incarcerated member, or incompetent's share. The investment policy of this trust will preserve the trust corpus while obtaining the highest interest rates current money markets can safely provide. Maturity dates of investments cannot exceed the period of the trust and only the following types of investment shall be made: United States Treasury bills; Bankers' acceptance, provided the assets of the issuing bank exceed $1 billion or the issuing bank pledges full collateral; Certificates of deposit, provided the assets for the issuing bank exceed $1 billion or the issuing bank pledges full collateral; Commercial paper, provided it is rated prime-2 by Moody's or A-2 by Standard and Poor's or is an obligation of a company with outstanding unsecured debt rated Aa by Standard and Poor's.

2. Minors who will have reached the age of 18 years within six months after the establishment of the Minor, Incarcerated Members and Incompetents Trust shall have

their funds retained at interest in individual Indian money accounts and paid to them upon attaining their majority.

3. Upon reaching 18 years of age minor beneficiaries of the trust may make application to the Board to have their share plus interest transferred to them.

4. Release of funds regarding legal incompetents---Upon the petition of the legal guardian of the beneficiary, trust assets shall be distributed to the beneficiary as deemed appropriate by Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

5. Incompetent qualified Tribal member---To be deemed incompetent under this Plan, a qualified tribal member must be declared incompetent by a court of competent jurisdiction prior to any disbursement of monies to any individuals. His/her guardian must inform the Board, with sufficient written evidence, that he/she is the incompetent's legal guardian along with the guardian and incompetent's current address(es) prior to the aforementioned disbursement. If the Board does not receive such notification, then the Board may release his/her share to the individual at his/her last known address and neither the Board nor Tribe will bear any further responsibility for the individual's funds.

6. Incarcerated qualified Tribal member---To place an incarcerated member's share in trust under section 3 (c)(1) [WOTC 7.103(C)(1)] the Board must have actual knowledge of the individual's incarceration. Incarcerated individuals should inform the Board in writing of their incarceration before any distribution of monies under this plan. If the Board does not have actual knowledge of an individual's incarceration, then the Board may release his/her share to the individual at his/her last known address and neither the Board nor Tribe will bear any further responsibility for the individual's funds, including subsequent recoupment or attachment of the individual's share by any governmental entity or creditor. The Board will disburse the individual's share from the trust account to the individual upon his/her release from incarceration. Prior to release from incarceration, the individual's share can only be disbursed by order of the Tribal Court. The Tribal Court may issue such order, in its discretion, upon petition by the incarcerated member through a guardian or Power of Attorney.

7. In the event that a minor, incompetent or incarcerated person dies while his/her

money is in trust, that money shall be distributed to the member's heirs at law.

D. Land Claims Distribution Trust Fund Interest Distribution.

1. Except for the administration costs allowed under Section 3 (b)(1) [WOTC 7.103(B)(1)], interest earnings of the Trust Fund investment shall be utilized only as outlined in this subsection (D) of this plan.

2. The earnings of the Trust Fund shall be utilized to increase the principle until it reaches the amount of the original distribution to the tribe from the United States, plus an amount adequate to fund the redemption of all outstanding shares at that time, pursuant to this subsection. The Board shall have the authority to invest the principal of the Trust Fund on market risk principles that will ensure adequate increases in the principle, while at the same time protecting the principle.

E. New Trust Fund.

1. Upon the accumulation of the original principle pursuant to subsection (D)[WOTC 7.103(D)] , the Land Claims Distribution Trust Fund will become the Odawa Perpetuation Trust Fund, to be managed by the Trust Fund Board. Not more than 85% of the interest from the investment of the Trust Fund shall be distributed according to the specific formula described herein, while no more than 5% of the interest each year shall be spent on administration of the Trust Fund, and at least 10% of the interest each year shall be re-invested in the Trust Fund.

2. Children born to members after the date of Secretarial approval of this plan who are themselves enrolled members in the Bands shall receive a one time per capita payment of an amount equal to the originally distributed two shares, upon reaching the age of eighteen.

3. Of the funds remaining, 40% of the interest each year shall be spent on programs designed to benefit Elders, 20% of the interest each year shall be spent on programs designed to benefit Youth, 20% of the interest each year shall spent on programs for general tribal benefit, and 20% shall be spent on land acquisition or defense of treaty

rights or both.

4. The Odawa Perpetuation Trust Fund shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Bands.

F. No Secretarial Responsibilities for Trust Fund.

The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Land Claims Distribution Trust Fund or the Odawa Perpetuation Trust Fund.

G. General Provisions.

1. In the event that a tribal member eligible for a payment under this section shall die after preparation of the distribution roll, but prior to the distribution date, such payment shall be paid to the estate of such member.

2. To receive a per capita share, persons must be enrolled members of the Bands by midnight at the end of the date of approval of this plan by the Secretary. In addition, the estate of any deceased member who was living and enrolled on the date of enactment of the Michigan Indian Land Claims Settlement Act (Public Law 105-143), December 15, 1997, and the estate of any deceased member enrolled between December 15, 1997 and midnight at the end of the date of approval of this plan by the Secretary, shall also receive per capita shares.

(Source: 1998007, March 13, 1998, Section III, as amended by WOS 1998008, April 19, 1998; WOS 1998010, July 12, 1998; and WOS 1998011, September 13, 1998)

Chapter 1a. Non-Attachment of Judgment Fund Per Capita Payments

7.1a01 SHORT TITLE

This Statute may be cited as the "Non-Attachment of Judgement Funds Per Capita Payments Act."

(Source: WOS 1999003, May 2, 1999, Section I)

7.1a02 NON-ATTACHMENT OF JUDGMENT FUND PER CAPITA PAYMENTS

None of the funds which are distributed per capita at any time to Tribal members through redemption of share certificates or otherwise pursuant to the Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgement Fund Distribution, approved by the Secretary of the Interior on December 16, 1998, shall be subject to attachment to satisfy any lien, judgment or any other debt.

(Source: WOS 1999003, May 2, 1999, Section II)

Chapter 1b. Distribution of Judgment Funds to Estates

7.1b01 PURPOSE

Under A Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgement Fund Distribution (Plan), the estates of certain deceased Tribal members shall receive payments. This Statute describes how such payment shall be made to such estates.

(Source: WOS 1999006, May 23, 1999, Section I)

7.1b02 DISTRIBUTION

A. In the event that a Tribal member who is eligible to receive a payment under the Plan should die before the funds are distributed, that individual's payment shall be distributed to his/her heirs at law. The Trust Fund Board may request a copy of the individual's death certificate or other proof of the date of death to verify the individual's eligibility for his/her shares.

B. If such individual had a will at the time of his/her death, such individual's heirs and the

share each heir is entitled to, shall be determined under that will.

C. If no will was present at the time of his/her death, the shares shall be distributed to any surviving spouse, or, in the absence of a surviving spouse, shall be distributed equally to any surviving children, or, in the absence of any surviving children, shall be distributed to surviving parents, or, in the absence of surviving spouse, children, or parents, in equal shares to surviving siblings, or, in the absence of surviving spouse, children, parents, or siblings, shall revert to the Tribe. In all cases, an individual's heirs shall be determined by a court of competent jurisdiction.

(Source: WOS 1999006, May 23, 1999, Section II)

Chapter 2. Trust Fund Board

7.201 PURPOSE AND TITLE

The "Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgment Fund Distribution" mandates the creation of the Trust Fund Board to maintain and manage the Trust Funds created under the Plan, and issue the Share Certificates described in the Plan. This Statute creates the Board and defines its composition, terms, duties and functions. This Statute may be cited as the "Trust Fund Board Act." This Statute repeals and replaces Waganakising Odawak Statute 1998013, 1999011 and all other amendments.

(Source: WOS 2008-008, June 8, 2008, Section I)

7.202 DEFINITIONS

A. **"Board"** means the Trust Fund Board created under this Statute.

B. **"Plan"** means the Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgment Fund Distribution, being Waganakising Statute 1998007, as amended.

C. **"Secretary"** means the Secretary of the United States Department of the Interior.

D. **"Tribal Government Trust Fund Expendable"** means a Tribal trust fund to be administered by the Board, from which principal may be spent, created exclusively from funds separate and apart from those received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143.

E. **"Tribal Government Trust Fund Non-expendable"** means a Tribal trust fund to be administered by the Board, from which principal may not be spent, created exclusively from funds separate and apart from those received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143.

F. **"Trust Funds"** means the Land Claims Distribution Trust Fund and the Minor, Legally Incompetent and Incarcerated Person's Trust Fund, and their successor funds created under the Plan. Initially, the Minor, Legally Incompetent and Incarcerated Person's Trust Fund will consist of nineteen (19) segregated accounts, one of which will be closed annually as provided for in this Statute.

(Source: WOS 2008-008, June 8, 2008, Section II)

7.203 CREATION OF TRUST FUND BOARD

A. Creation of Trust Fund Board. The Tribal Council hereby creates the Trust Fund Board, which shall consist of five (5) Tribal Citizens at least eighteen (18) years of age appointed by the Tribal Council. No member of the Tribal Council shall serve on the Trust Fund Board.

B. Qualifications. No person can be appointed to the Board who has been convicted of a felony in tribal, state or federal court within seven (7) years prior to the date of appointment. The Tribal Council shall require background checks of potential appointees prior to finalizing appointments.

C. Term and compensation. Members of the Board shall be appointed to serve for four (4) year terms. Members may be reappointed for additional terms without limitation. To stagger terms, when the Tribal Council makes initial appointments, two people shall be appointed to two (2) year terms, and three people shall be appointed to four (4) year terms. All appointments thereafter shall be for four (4) year terms. One of the Board members shall be elected by the

Board to serve as Chairperson for a one (1) year term. There shall be no limit on re-election as long as the Chairperson remains on the Board. The Tribal Council may authorize compensation to be paid to members of the Board. This compensation shall be considered a cost to be charged against the current earnings of the Trust Funds.

D. Oath of Office. Upon appointment, the Tribal Court shall administer the oath of office to the members of the Board 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 fiduciary responsibilities set forth in this Statute.

E. Vacancies. In the event a vacancy occurs in the Board, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal Citizen to fill the remaining term of office.

F. Removal. Board members may be removed for the reasons, and following the procedures set out in the Removal of Commissioners and Nepotism Statute (Waganakising Odawak Statute 1997005), or such successor statute as enacted.

Application of Commissions Statute. All provisions of the Commissions, Boards and Committees Procedures Statute (Waganakising Odawak Statute 1998012) not inconsistent with this Statute apply to the Board.
(Source: WOS 2008-008, June 8, 2008, Section III)

7.204 DUTIES OF THE TRUST FUND BOARD

A. The Trust Fund Board shall have the following powers, duties and functions:

B. The Board shall devise and draft rules and regulations governing the Board, including, but not limited to, investment, certificate creations, bearer responsibility, redemption and disbursement. The Board shall submit these drafts and any subsequent amendments to the Tribal Council for review and approval.

C. The Board shall administer the Trust Funds created under the Plan, which shall consist solely of funds distributed to the Tribe pursuant to the Michigan Indian Land Claims Settlement Act, Public Law 105-143 and the Plan prepared and approved under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. Sec. 1403(b)) and interest and other investment income earned thereon. The Trust Funds shall be audited at least once during each calendar year by an independent certified public accountant that shall prepare a report on the results of such audit. The full report shall be reasonably available for inspection by Citizens of LTBB, and a financial statement shall be distributed annually to all head of household addresses by the most efficient means. Payment for audit services shall be made from the current income accounts of the Trust Funds and charged against the earnings of the fiscal year in which the payment becomes due. Provided, that any contracts for professional services shall provide that payment shall only be made out of income from the Trust Funds, and not from principal.

D. The Board may retain or hire a professional trust manager or company and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Funds and charged against the earnings of the fiscal year in which the payment becomes due. Provided, that any contracts for professional services shall provide that payment shall only be made out of income from the Trust Funds, and not from principal. The Trust Fund Board shall obtain written qualifications of the potential trust fund manager or company before retention. The Trust Fund Board shall conduct such research and require such background checks as it deems necessary to assess the qualifications and suitability of the potential trust fund manager or company.

E. Investment Strategy.

1. The Trust Fund Board shall develop an overall prudent investment policy to provide for consistent long-term growth of capital without undue exposure to risk.

2. Allowable funds must be legal investments which may include, but not be limited to:

a. Bonds, bills, or notes of the United States; obligations, the principal and interest of which are fully guaranteed by the United States, or obligations of States or Tribes.

b. Certificates of deposit issued by a tribal, state, or national bank organized and authorized to operate as a bank.

c. Commercial paper rated prime at the time of purchase.

d. Publicly traded stocks and or bonds as well as other federally regulated marketable securities.

3. The Trust Fund Board is authorized to designate depositories for the Trust Funds and any successor funds and to determine that the funds are invested appropriately.

4. The Trust Fund Board is prohibited from using or allowing the Trust Funds and their successor fund investments to be used as collateral or guaranty against any form of debt secured in the name of the Tribe or Tribal entities. Furthermore, the Tribal Council or any Tribal governmental entity is prohibited from using the Trust Funds and their successor fund investments as collateral or guaranty against any form of debt secured in the name of the Tribe or Tribal entities.

5. No person or entity can borrow funds from the Trust Funds and their successor fund investments, be it the Trust Fund Board, other Tribal entity, or a non-Tribal entity.

F. Initial Tribal Investment. The initial Tribal investment will consist of twenty per cent (20%) of the total amount of the distribution from the Federal Government. Up to one hundred thousand dollars ($100,000.00) of this amount is authorized to be spent to pay costs associated with the initial Share Certificate issuance and redemption for a one year period. After the first year, all costs of maintaining and redeeming Share Certificates shall be considered costs charged against the earning of the Trust Funds.

G. Share Certificates.

1. The Board will create Share Certificates. The face value of each Share Certificate shall be calculated by the following two steps:

a. By dividing 80% of the total dollar amount of the distribution from the United States on the date of such distribution by the number of Tribal members who are eligible to participate in the distribution under section 3(g) of the Plan, and

b. This amount will then be divided by two to determine the amount of each Share Certificate. The estimated value of each Share Certificate is $2,000 but the exact amount will depend on the exact amount of the distribution and number of members eligible to participate in the distribution. Each eligible member will receive two Share Certificates, which added together will be worth approximately $4,000.

2. Each eligible member will have the option of immediately redeeming one or both of their Share Certificates, or leaving one or both of their Share Certificates in the Trust Fund. Share Certificates are redeemable at no more than face value unless they are left in the Trust Fund for ten years or until the Trust Fund reaches the value of the total amount of the original distribution from the United States, at which point each unredeemed Share Certificate will be worth $500 more than its original face value.

3. The Board will take all necessary technological and other measures to ensure the integrity of the Share Certificates so they cannot be duplicated, copied, altered, or forged.

H. Minor and Incarcerated Person's Trust Fund.

1. The Board shall establish a separate Trust Fund with segregated amounts equal to each minor and incarcerated share. The following types of investment are permitted: Bonds, Bills or notes of the United States, Bankers acceptance, Commercial Paper that is rated prime at the time of purchase, Certificates of Deposit that are issued by a bank with assets greater than one billion dollars.

2. Each year one of the 19 segregated accounts of the Minor and Incarcerated Trust Fund shall be closed. This amount shall be transferred to an interest bearing checking account.

3. Starting January 1, 2002, eligible recipients who turn eighteen may redeem their share certificates based on the face value of the share certificates plus interest accrued on their share until the earliest of either date of redemption or until December 31st of the year they reach their 18th birthday. If the shares are not redeemed then the principal and interest will be deposited into the Land Claims Distribution Trust Fund where it shall be paid out in accordance with Section IV(F)(2) of this Statute.

4. Starting January 1, 2002, eligible recipients who are released from incarceration may redeem their share certificates based on the face value of the share certificates plus interest accruing until the earliest of either date of redemption or until December 31st of the year that they are released from incarceration. If the shares are not redeemed then the principal and interest will be deposited into the Land Claims Distribution Trust Fund where it shall be paid in accordance with Section IV(F)(2) of this Statute.

5. It is the recipient's responsibility to notify the Trust Fund Board of this election by the redemption date or no later than December 31st of the year of eligibility.

I. New Trust Fund.

Upon the accumulation of the original principal received by the Tribe from the United States government pursuant to Michigan Indian Land Claims distribution in the amount of $14,946,239.18, the following shall occur:

1. The Land Claims Distribution Fund shall become the Odawa Perpetuation Fund, to be managed by the Board. Not more than 85% of the interest from the investment of the Trust Fund shall be distributed according to the specific formula described herein, while no more than 5% of the interest each year shall be spent on the administration of the Trust Fund. At least 10% of the interest shall be re-invested in the Trust Fund.

2. Children born to members after the date of Secretarial approval of the Plan who are themselves enrolled members in the Tribe shall receive a one time per capita payment of the amount equal to the original distributed two shares upon reaching the age of eighteen. Due to the effects of inflation, the Board may request that the Tribal Council increase this amount.

J. No Secretarial Responsibility for Trust Fund.

The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Lands Claims Distribution Trust Fund of the Odawa Perpetuation Fund.

(Source: WOS 2008-008, June 8, 2008, Section IV)

7.205 ADDITIONAL TRUST FUNDS

A. Tribal Government Trust Fund. From time to time the Board may administer additional trust funds, Non-Expendable and Expendable, wherein the Tribal Council has allocated the principal that may come from Tribal gaming and other economic enterprises, grants, donations and bequests. No portion of the principal of these funds shall ever be derived from monies received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143, or any income generated therefrom. The Trust Fund Board or its financial advisor shall consult with the Tribal Council to determine the amounts to be invested, as determined by the Tribal Council, in each of the Tribal Government Trust Funds. The investment strategy shall be the same as set out in Section IV(d).

1. Tribal Government Trust Fund Non-expendable. Each year up to 5% of the interest may be spent on administration of the Fund. At least 10% of the interest shall be re-invested.

2. Tribal Government Trust Fund Expendable. Each year up to 5% of the interest may be spent on administration of the Fund. Any interest not distributed shall be re-invested in the Fund.

3. The remaining interest from both funds shall be distributed as follows:

a. Up to 50% may be spent on programs for the general Tribal benefit, including land acquisition or defense of treaty rights.

b. Up to 50% may be distributed through in house grants for the benefit of elders and youth programs. In the event that funding shortages threaten basic government operation and services, the allowable expenditures may first be used to cover such shortfalls.

(Source: WOS 2008-008, June 8, 2008, Section V)

7.206 MEETINGS, QUORUM, VOTING AND CONFLICT OF INTEREST

A. Meetings. The Board shall meet at least quarterly and as often as necessary to properly carry out its duties and functions. All Board meetings shall be open to the Tribal membership and any other persons that the Tribal Council may designate to attend.

B. Voting and Quorum. Actions of the Board shall be decided by a majority vote of those present at the meeting. The Chairperson is entitled to vote on all matters before the Board. A quorum shall consist of three (3) members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Board meeting.

C. Conflict of Interest. Board members shall not participate in any decisions in which they have a direct financial interest, other than interests that they share in common with the Tribal membership.

D. Bonding. The Trust Fund Board shall be bonded and carry errors and omissions insurance in amounts adequate to safeguard the financial interests of LTBB and its members in the Trust Funds and their earnings through the insurance policy carried by the tribe. Additionally, the Trust Fund Board members shall be bonded up to $100,000 either by a rider endorsement to the tribe's policy or a separate bond policy through an independent insurance agency of the Board's choice. The costs of obtaining such bonds and/or insurance shall be considered costs charged against the earnings of the Trust Funds.

(Source: WOS 2008-008, June 8, 2008, Section VI)

7.207 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, laws or ordinances of or governing 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.

(Source: WOS 2008-008, June 8, 2008, Section VII)

7.208 EFFECTIVE DATE

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

(Source: WOS 2008-008, June 8, 2008, Section VIII)

Chapter 3. Economic Development Commission

7.301 SHORT TITLE AND PURPOSE

A. This Statute may be cited as the "Economic Development Commission Statute".

B. The purpose of this Statute is to sets forth the Purpose, Duties and Membership provisions for the Economic Development Commission and amend any and all previous Statutes, Resolutions or Amendments pertaining to the Economic Development Commission including, WOS 1996007, WOS 2000-12, WOS 2002-05, WOS 2003-03.

(Source: WOS 2009-023, July 26, 2009, Section I)

7.302 PURPOSE OF THE COMMISSION

The Commission is hereby created within the Executive Branch of government. The primary purpose of the Commission is to create fiscally viable community development enterprises and

projects that emphasize the creation of employment opportunities for Tribal Citizens and community members.

(Source: WOS 2009-023, July 26, 2009, Section II)

7.303 MEMBERSHIP OF THE COMMISSION

A. The Economic Development Commission, which shall consist of three (3) Tribal Citizens at least eighteen years of age appointed by the Tribal Council. If there are more than three members at the time of the enactment of this Statute, the members shall remain on Commission until the expiration of their term.

B. Members of the Economic Development Commission shall be appointed to serve for three (3) year terms.

C. One of the Commission members shall be appointed by the Commission to serve as Chairperson for a one year term. There shall be no limit on reappointment as long as the chairperson remains on the Commission.

D. Commissioners may only be removed in accordance with such Tribal statute governing such removal.

(Source: WOS 2009-023, July 26, 2009, Section III)

7.304 DUTIES OF THE COMMISSION

The Economic Development Commission shall have the following duties excluding any matters directly relating to gaming:

A. Assess economic development proposals for fiscal viability and the creation of jobs.

B. Develop such proposals that will enhance employment or training to Tribal Citizens and community members.

C. Engage in further activities as directed by the Tribal Council.

(Source: WOS 2009-023, July 26, 2009, Section IV)

7.305 STAFFING

The Tribal Chairperson may direct the Tribal Administrator to assign or hire staff to assist the Commission

(Source: WOS 2009-023, July 26, 2009, Section V)

7.306 MEETING, VOTING, CONFLICTS OF INTEREST, CONFIDENTIAL RECORDS

A. **Meetings**. The Economic Development Commission shall meet quarterly or as needed, within funding availability. The Economic Development Commission may meet in closed session when considering potential contracts, business ventures, or land acquisitions when it deems that general public knowledge of its discussions at a certain time could hinder the potential of the projects being considered.

B. **Voting**. Actions of the Economic Development Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters before the Commission. A quorum shall consist of a simple majority of the number of commissioners notwithstanding vacancies. A meeting may not be called to order without a quorum present and no official business may be conducted absent a quorum.

C. **Conflicts of Interest**. Commission members who have a direct financial interest in, or have immediate family members with a direct financial interest in, a potential economic venture shall not vote on any action relating to such potential venture.

D. **Confidential Records**. All records of the Commission involving specific economic development matters shall be kept confidential until directed by the Tribal Council.

(Source: WOS 2009-023, July 26, 2009, Section VI)

7.307 SAVING 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-023, July 26, 2009, Section VII)

7.308 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2009-023, July 26, 2009, Section VIII)

Chapter 4. Gaming Regulation

[*The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. requires approval of tribal gaming ordinances by the National Indian Gaming Commission. The following Waganakising Odawak Statute 2005-06, enacted May 15, 2005, was approved by the NIGC on July 25, 2005*]

7.401 PURPOSE

The Tribal Council hereby ordains and establishes this Statute for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class I, II, and III gaming may be conducted on the lands of the Tribe. This Statute rescinds and replaces the Gaming Regulatory Statute enacted on February 18, 2001, being Waganakising Odawak Statute 2001-02.

(Source: WOS 2005-06, May 15, 2005, Section I)

7.402 DEFINITIONS

Unless a different meaning is clearly indicated in this Statute, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* Throughout this Statute, citations to Tribal or Federal statutes and regulations include successor statutes and regulations if such future changes do not alter the intent of this Statute. Additionally:

A. "**Board of Directors**" means the Tribal Gaming Board of Directors created under Waganakising Odawak Statute 2004-08, or any successor entity created by Tribal Statute to carry out non-regulatory aspects of the Tribe's gaming operation.

B. "**Commission**" means the Little Traverse Bay Bands of Odawa Indians Tribal Gaming Regulatory Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.

C. "**Commissioner**" means a Little Traverse Bay Bands of Odawa Indians Tribal Gaming Regulatory Commissioner.

D. "**Compact**" means a Tribal-State Compact concerning class III gaming under 25 U.S.C. § 2710(d).

E. **"Complimentary Items**" means a service or item provided at no cost, or at a reduced cost, to a customer, but does not include discounts offered equally to all Tribal members.

F. "**Directly related to**" means immediate family relations as defined in the Tribe's nepotism statute, Waganakising Odawak Statute 2002-05, WOTC Title XIV, Section 6.414.

G. "**Key Employee**" means:

1. A person who performs one or more of the following functions:

a. Bingo caller;

b. Counting room supervisor;

c. Chief of security;

d. Custodian of gaming supplies or cash;

e. Floor manager;

f. Pit boss;

g. Dealer;

h. Croupier;

i. Approver of credit; or

j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;

2. If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or

3. If not otherwise included, the four most highly compensated persons in the gaming operation. *[25 C.F.R. § 522.4(b)(1)] & [25 C.F.R. § 502.19]*

H. **"Net Revenues**" means gross gaming revenues of the Little Traverse Bay Bands of Odawa Indians gaming operation less:

1. Amounts paid out as, or paid for, prizes; and

2. Total gaming-related operating expenses, excluding management fees.

I. "**Non key employee**" means any employee of the gaming operation that is not a key

employee or primary management official.

J. "**Primary Management Official**" means:

1. The person(s) having management responsibility for a management contract;

2. Any person who has authority:

a. To hire and fire employees; or

b. To set up working policy for the gaming operation; or

c. The chief financial officer or other person(s) who has financial management responsibility.

K. "**Tribal Council**" means the elected governing body of the Little Traverse Bay Bands of Odawa Indians (LTBB).

L. "**Tribal lands**" means all lands within the Little Traverse Bay Bands of Odawa Indians jurisdictional reservation boundaries, and any lands title to which are held in trust by the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians.

M. "**Tribe**" or "**LTBB**" means the Little Traverse Bay Bands of Odawa Indians which as reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as a federally recognized tribe, and is recognized as possessing powers of self-government.

(Source: WOS 2005-06, May 15, 2005, Section II)

7.403 GAMING AUTHORIZED

A. **Class I Gaming** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations. Class I gaming, or a raffle authorized by the Tribe or State, is

regulated by the Commission only when it occurs within Class II or Class III gaming facilities of the Tribe, including connected amenities, such as hotels, restaurants and parking lots at such site. Class I gaming that occurs away from such facilities is not regulated by the Commission.

B. **Class II Gaming** is hereby authorized and defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC") that now or hereafter may be in effect.

C. **Class III Gaming** is hereby authorized and defined in IGRA, 25 U.S.C. Section 2703(8) and by regulations promulgated by the NIGC that now or hereafter may be in effect is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved or deemed approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

(Source: WOS 2005-06, May 15, 2005, Section III)

7.404 OWNERSHIP OF GAMING

The Little Traverse Bay Bands of Odawa Indians shall have the sole proprietary interest in and responsibility for the conduct of any gaming facilities and/or enterprise operation authorized by this Statute. *[25 C.F.R. § 522.4(b)(1)]*

(Source: WOS 2005-06, May 15, 2005, Section IV)

7.405 USE OF GAMING REVENUE

A. Net revenues from tribal gaming shall be used only for the following purposes:

1. to fund tribal government operations and programs;

2. to provide for the general welfare of the Tribe and its members;

3. to promote tribal economic development;

4. to donate to charitable organizations; or

5. to help fund operations of local government agencies. *[25 C.F.R. § 522.4(b)(2) and 25 U.S.C. § 2710(b)(2)(B)]*

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only in accordance with a plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

C. The Tribe shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare or the minor or other legally incompetent person, under a plan approved by the Tribal Council and the Secretary of the Interior.

(Source: WOS 2005-06, May 15, 2005, Section V)

7.406 GAMING REGULATORY COMMISSION

A. The Tribe hereby establishes a Tribal Gaming Regulatory Commission whose duty it is to regulate tribal gaming operations. The Commission shall consist of at least three (3) but not more than five (5) Tribal members. There shall be among them a Chairperson, Vice-Chairperson, Secretary and Treasurer, provided the Secretary and Treasurer may be combined into one position.

B. The purpose of the Commission is to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal control standards for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

C. The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be and act independently and autonomously from the Tribal Council in all individual licensing decisions. No prior or subsequent review by the Tribal Council of any licensing and fining actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Statute. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:

1. No member of the Tribal Council may serve on the Commission unless they would themselves qualify for licensing under this Statute, have no direct business relationship with the Tribe's gaming enterprise, and may only be appointed to emergency interim positions when no other qualified Tribal members are available.

2. No Tribal Gaming Board of Directors member may serve on the Commission;

3. No Tribal member directly related to or living with any Tribal Gaming Board of Directors member may serve on the Commission;

4. Members of the Commission, Tribal Council and Gaming Board of Directors are prohibited from gambling in the facility.

5. The following persons are also ineligible to serve on the Commission: employees of the gaming operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); persons directly related to or sharing a residence with any of the above; persons ineligible to be key employees or primary management officials.

D. The members of the Commission shall be appointed by the Tribal Council as follows:

1. Composition of the Commission. The Commission shall consist of three (3) to five (5) Tribal members appointed by the Tribal Council.

2. Term. Members of the Commission shall be appointed to serve for three (3) year

terms. Terms shall be staggered so no more than two terms start in any one year. Members may be reappointed for additional terms without limitation.

3. Subject to the availability of funding and a budget approved by the Tribal Council, members of the Commission may receive a stipend, mileage and expense reimbursement in accordance with a stipend policy adopted by the Tribal Council.

4. Future Appointments and oath of office shall be conducted in accordance with the Commissions, Committees and Boards Statute, WOS 2002-05, or such successor statute as Tribal Council may enact.

E. Tribal member nominees for the positions of Commissioners must submit to a background check qualifying for licensing under this Statute.

F. The Commission shall:

1. Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;

2. Review and approve all investigative work conducted;

3. Report results of background investigations to the NIGC;

4. Obtain and process fingerprints, or utilize the Tribal Law Enforcement agency to obtain and process fingerprints;

5. Make suitability determinations, which shall be signed by a majority of the Commissioners present when the license is approved;

6. Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;

7. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all gaming related records of the gaming

establishment;

8. Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;

9. Investigate any suspicion of wrongdoing associated with any gaming activities, and report any potential criminal violations to Tribal Law Enforcement.

10. Hold hearings on patron and/or employee complaints, in compliance with procedures established in this Statute and other Tribal gaming regulations;

11. Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;

12. Promulgate and issue regulations necessary to comply with the Tribe and the NIGC's Minimum Internal Control Standards (MICS);

13. Promulgate and issue regulations on the levying of fees associated with gaming license applications;

14. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming Statute, or any other Tribal, Federal, or State, if applicable, gaming regulations; and

15. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.

16. The Commission shall be authorized to employ such staff and/or consultants as reasonably may be required to fulfill its responsibilities under this Statute subject to personnel policies approved by Tribal Council.

G. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall

information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation.

1. This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

H. Removal. Members of the Commission can only be removed in accordance with standards and procedures set out in the Commissioner Removal and Nepotism Act (Waganakising Odawak Statute 2001-10), or such successor statute as the Tribal Council may enact.

I. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.

J. The Commission shall keep a written record of all its regularly scheduled, special, and emergency meetings, and licensing hearings and meetings.

(Source: WOS 2005-06, May 15, 2005, Section VI)

7.407 ETHICS

A. The Tribe recognizes that the duties of the Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to high ethical standards. Prior to taking their positions, the Commissioners shall agree to be bound by the following principles:

1. Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties;

2. Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest;

3. Commissioners shall not solicit or accept any inappropriate gift or other item of monetary value as defined in the Commission's bylaws, regulations or Tribal Council statute or policy, including complimentary items (see Section VIII, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Commission, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties;

4. Commissioners shall not make unauthorized commitments or promises of any kind purporting to bind the Tribe;

5. Commissioners shall not use their positions for private gain;

6. Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual;

7. Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities;

8. Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities;

9. Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(Source: WOS 2005-06, May 15, 2005, Section VII)

7.408 COMPLIMENTARY ITEMS FROM THE GAMING ENTERPRISE

A. The use of complimentary items shall be governed by regulations established by the Commission, which shall be in accord with the NIGC's Minimum Internal Control Standards, found at 25 C.F.R. § 542.17.

B. No Employee, Primary Management Official, Tribal Council member, Tribal Chairperson, Vice-Chairperson, member of the Tribal Judiciary, member of the Gaming Board of Directors or the Commission, shall be authorized to receive complimentary items from the Tribe's gaming enterprise.

(Source: WOS 2005-06, May 15, 2005, Section VIII)

7.409 AUDIT

A. Annual Audit. The Tribal Council shall appoint an independent auditor to conduct the annual financial statement audit and minimum internal control testing as required by 25 C.F.R. §§ 522.4 and 571.12 and any other applicable or successor Federal regulations. The Commission shall have a right to receive a copy of the annual audit.

B. Internal Audit. The Commission shall employ personnel to conduct the compliance function (internal audit). In the event that the internal audit function cannot be performed by in-house staff, the Commission may engage an independent audit firm with the approval of the Tribal Council.

C. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A above. *[25 C.F.R. § 522.4(b)(4)]*

(Source: WOS 2005-06, May 15, 2005, Section IX)

7.410 ENVIRONMENTAL AND PUBLIC HEALTH AND SAFETY

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. The Tribal Council may designate persons or entities other than the Commission to ensure compliance with non-gaming health and safety standards such as building codes, fire safety, etc.

(Source: WOS 2005-06, May 15, 2005, Section X)

7.411 PATRON DISPUTE RESOLUTION

Patrons who have gaming related complaints against the gaming establishment, a gaming employee, or a management contractor shall have as their sole remedy the right to file a petition for relief with the Commission and the complaint shall be resolved in accordance with procedures adopted by the Commission. Such procedures shall at a minimum include:

A. The aggrieved member of the gaming public shall first bring his/her complaint either verbally or in writing to staff of the gaming facility within seven (7) days of the incident giving rise to the complaint.

B. If not satisfied with staff response, the complaining party may file a written complaint with the Commission within fourteen (14) days from receiving the gaming staff response. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued.

(Source: WOS 2005-06, May 15, 2005, Section XI)

7.412 LICENSING OF EMPLOYEES

A. The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II and/or Class III gaming enterprise. The Commission has the authority to set licensing standards and issue licenses to non-key employees of the enterprise. The application requirements and standards for issuance of non-key licenses will be set out in the Commission regulations promulgated under this Statute.

B. Application Forms.

1. The following notice shall be placed on all key and primary management official license application forms:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions, or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application." *[25 C.F.R. § 556.2(a)]*

2. The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

a. Complete a new application form that contains both the Privacy Act and false statement notices; or

b. Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key

employee or a primary management official:

a. A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment, or both. (18 U.S.C. §1001).

C. License Fees.

The Tribe may charge a license fee, to be set by the Commission and approved by the Tribal Council, to cover its expenses in investigating and licensing required under this Statute.

D. Background Investigations.

1. The Commission shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those in 25 C.F.R. parts 556 and 558.

2. The Commission shall conduct an investigation sufficient to make a determination under Subsection G. below. In conducting a background investigation, the Commission or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The Commission may utilize the Tribe's Law Enforcement Department to take fingerprints and conduct criminal history checks. The criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation and any other services as are available and appropriate.

E. Fingerprints.

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by Licensing Department or Tribal Law Enforcement. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any. *[25 C.F.R. § 522.2(h)]; [25*

C.F.R. § 556.4(a)]

F. Procedures for Conducting a Background Check on Applicants.

1. As part of its review procedure, the Commission or its agent may employ or engage a private investigator to conduct a background investigation on each applicant sufficient to allow the Commission to make an eligibility determination under subsection G below. The investigator shall:

a. Verify the applicant's identity through items such as a social security card, drivers license, birth certificate, or passport;

b. Contact each personal and business reference provided in the License Application;

c. Obtain a personal credit check;

d. Conduct a civil history check;

e. Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years or longer if required under the Compact or any applicable law or regulation;

f. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;

g. Verify the applicant's history and status with any licensing agency by contacting the agency; and

h. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

2. The investigator shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information.

3. The Commission and its private investigator shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Tribal, Federal or State law. *[25 C.F.R. § 556.4(b)]*

G. Eligibility Determination.

The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Commission shall not license that person in a key employee or primary management official position. The application will include all charges and convictions as required to be disclosed under federal or Tribal law or regulations, or under the terms of a gaming compact that the Tribe is party to. However, the Commission will not consider records expunged or sealed by a Court of law.

H. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

1. When a key employee or primary management official begins work at a gaming operation authorized by this Statute, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection G of this Section.

2. The gaming operation shall not employ as a key employee or primary management official a person who after 90 days does not have a license. *[25 C.F.R. § 558.3(a)] [25 C.F.R. § 558.3(b)]*

I. Report to the National Indian Gaming Commission.

1. The Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigative report shall include all of the following:

a. Steps taken in conducting a background investigation;

b. Results obtained;

c. Conclusions reached; and

d. The bases for those conclusions. *[25 C.F.R. § 556.5(a), (b)]*

2. The Commission shall forward the completed investigative report to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Statute by the Chairman of the National Indian Gaming Commission. *[25 C.F.R. § 558.3(b)]*

3. The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. *[25 C.F.R. § 556.5(c)]* This determination shall include a statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Commission to make a finding concerning the eligibility for employment in a gaming operation; and a statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

4. If a license is not issued to an applicant, the Commission:

a. Shall notify the NIGC if required under federal law or regulation in effect at the time; and

b. Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System. *[25 C.F.R. § 556.5(d)]*

5. With respect to all employees, and in particular key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment. *[25 C.F.R. § 558.1(b), (c)]*

J. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Commission, acting for the Tribe, may issue a license to such applicant. *[25 C.F.R. § 558.4(a)]*

2. The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph J. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information. *[25 C.F.R. § 558.4(c)]*

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to

the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Commission shall make the final decision whether to issue a license to such applicant. *[25 C.F.R. § 558.4(b)]*

K. License Suspension.

1. If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission, or other credible source, reliable information indicating that a key employee or a primary management official is not eligible for employment, the Commission shall suspend/revoke such license and shall notify in writing the licensee of the suspension and the proposed revocation. *[25 C.F.R. § 558.5(b)]*

2. The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation/suspension of a license. *[25 C.F.R. § 558.5 (c)]*

3. After a revocation/suspension hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision. *[25 C.F.R. § 558.5(d)]*

L. Review of Disputes.

The regulations shall contain an appellate procedure whereby appeals of licensing decisions are taken to the Tribal Court or such other appellate body as established therein. The burden of proof in hearings and appeals is on the person challenging the decision of the Commission, and the regulations may contain provisions for cost reimbursement for frivolous challenges.

Tribal members subject to licensing hearings shall be informed prior to any hearings that they may have another Tribal member of their choice present at all hearings, provided

that they sign a form authorizing release of confidential information to such Tribal member prior to their hearing.

(Source: WOS 2005-06, May 15, 2005, Section XII)

7.413 LICENSES FOR NON-KEY EMPLOYEES

All non-key employees must obtain and maintain in good standing a non-key license issued by the Commission. A non-key employee cannot be promoted to a key employee position without first obtaining a key-employee license. The application contents and procedures for a non-key license are the same as those for a license under Section XII, except information on non-key employees need not be sent to the NIGC or made available to the State of Michigan, and the investigation need only include fingerprinting and criminal history checks. The standards of issuance, suspension and revocation of non-key licenses will be set out in the regulations of the Commission.

(Source: WOS 2005-06, May 15, 2005, Section XIII)

7.414 LICENSES FOR VENDORS

A. License Required. Vendors of gaming related services or supplies of $25,000 or more annually must have a vendor license from the Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this section.

B. Submission of a Vendor License Application.

1. In order to obtain a vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the 10 largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

2. A vendor may submit a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information required by the Commission not contained in the other application.

C. Contents of the Vendor License Application.

1. Applications for vendor licenses must include the following:

a. Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;

b. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;

c. If the applicant is a corporation, the jurisdiction of incorporation, and the qualification to do business in the jurisdiction of LTBB or the State of Michigan.

d. Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;

e. General description of the business and its activities;

f. Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;

g. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

h. A description of any existing and previous business relationships with Indian tribes, including ownership, financial, or management interests in non-gaming activities;

i. Names, addresses, and phone numbers of three business references with whom the company had regularly done business within the last five years;

j. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

k. If the business has ever had a license revoked for any reason, the circumstances involved;

l. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;

m. List the business' funding sources and any liabilities of $50,000 or more;

n. A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and

o. Any further information the Tribe deems relevant.

2. The following notice shall be placed on the application form for a vendor and its principals:

a. Inclusion of false or misleading information in the vendor application, or any altercation of the vendor application form, may be grounds for denial or revocation of the vendor license.

D. Vendor Background Investigation.

The Commission may employ or otherwise engage a private investigator to complete an investigation of the vendor. This investigation shall contain, at a minimum, the following steps:

1. Verify of the business' incorporation status and qualification to do business in the jurisdiction where the gaming operation is located;

2. Conduct a check of the business' credit history;

3. Call each of the references listed in the vendor application; and

4. Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

E. Vendor License Fee.

The Tribe may charge a license fee, to be set by the Commission and approved by the Tribal Council, to cover its expenses in investigating and licensing vendors of the gaming operation. LTBB members will not be charged a vendor license fee.

F. The background investigator shall complete an investigative report covering each of the steps taken in the background investigation of the vendor and its principals.

(Source: WOS 2005-06, May 15, 2005, Section XIV)

7.415 MINIMAL INTERNAL CONTROL STANDARDS

Little Traverse Bay Bands of Odawa Indians acknowledges its obligation to adopt and implement Tribal Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of the NIGC

at 25 C.F.R. Part 542. The Tribe's MICS shall be set out in separate regulations to be reviewed and approved by the Tribal Council.

(Source: WOS 2005-06, May 15, 2005, Section XV)

7.416 LICENSE LOCATIONS

The Commission shall issue a separate license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this Statute. *[25 C.F.R. § 522.4(b)(6)]*

(Source: WOS 2005-06, May 15, 2005, Section XVI)

7.417 AGENT FOR SERVICE OF PROCESS

The Little Traverse Bay Bands of Odawa Indians hereby designates LTBB Tribal Chairperson as agent for service of process, who may be contacted at:

7500 Odawa Circle
Harbor Springs, MI 49740 *[25 C.F.R. § 519.1]*

(Source: WOS 2005-06, May 15, 2005, Section XVII)

7.418 MANAGEMENT CONTRACTS PROHIBITED

Management contracts for management of LTBB gaming enterprises are prohibited by this Statute, even if such contracts would otherwise be allowable under the IGRA.

(Source: WOS 2005-06, May 15, 2005, Section XVIII)

7.419 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, part, 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.

(Source: WOS 2005-06, May 15, 2005, Section XIX)

7.420 EFFECTIVE DATE

This Statute takes effect upon approval of the Chairman of the National Indian Gaming Commission, or when considered approved by operation of applicable Federal law and/or regulation.

(Source: WOS 2005-06, May 15, 2005, Section XX)

Chapter 5. Gaming Board of Directors

7.501 REPEALS AND REPLACES

This Statute repeals and replaces any previous Gaming Board of Directors Statute including Waganakising Odawak Statute 2004-08, WOS 2001-12, as amended by WOS 2000-02.

(Source: WOS 2009-012, May 3, 2009, Section I)

7.502 PURPOSE

This Statute creates the Enterprises for the Little Traverse Bay Bands of Odawa Indians and a Gaming Board of Directors as an Executive Committee in accordance with Article VII D (24), delegation of management responsibilities.

(Source: WOS 2009-012, May 3, 2009, Section II)

7.503 DEFINITIONS

A. *"Board"* or "*Gaming Board"* means the LTBB Gaming Board of Directors.

B. *"Board Member"* means a person appointed to the Gaming Board of Directors.

C. *"Business Plan"* means a plan written for the operations of the Casino for a designated timeframe that includes goals, measurable objectives, strategies, tactics, person assigned to the task and timelines.

D. *"Chief Financial Officer"* or *"CFO"* means the person employed as the Chief Financial Officer of the LTBB Government.

E. *"Director of Finance"* means the person employed by the Enterprises who reports to the General Manager to oversee all financial affairs of the Enterprises.

F. "*Enterprises"* means the Odawa Casino Resort and ancillary enterprises and activities and other tribally owned enterprises or businesses related to gaming.

G. *"Executive Branch"* means the Executive Branch of the Little Traverse Bay Bands of Odawa Indians.

H. *"Gaming"* means any game classified as "Class II" or "Class III" under the Indian Gaming Regulatory Act of October 17, 1988 and or future amendments.

I. **"***Gaming Operations"* or *"Operations"* means all business operations directly related to the conduct of the Enterprises.

J. *"General Manager"* means the person hired to manage and oversee the day-to-day operations of the Enterprises.

K. *"Independent Auditor"* is the person or entity required under the LTBB Gaming Regulatory Statute, as amended.

L. *"LTBB"* or *"Tribe"* means Little Traverse Bay Bands of Odawa Indians.

M. *"Tribal Council"* means the Legislative Branch of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2009-012, May 3, 2009, Section III)

7.504 CREATING GAMING ENTERPRISES

The Enterprises, including the Odawa Casino Resort is hereby created.

(Source: WOS 2009-012, May 3, 2009, Section IV)

7.505 CREATING THE GAMING BOARD

The Gaming Board of Directors is hereby created and the Tribal Council delegates and authorizes its duties and authorities as set forth in this Statute.

(Source: WOS 2009-012, May 3, 2009, Section V)

7.506 TRIBAL COUNCIL DELEGATION

In accordance with the Tribal Constitution, Tribal Council delegates the management of the Enterprises to the Executive Branch and the Executive Branch shall carry out such responsibility through the actions of the Board.

(Source: WOS 2009-012, May 3, 2009, Section VI)

7.507 COMPOSITION, ELIGIBILITY AND APPOINTMENT

A. Composition

1. The Board shall consist of five (5) persons appointed by the Tribal Council who meet the eligibility requirements set out in subsection (B) of this section.

2. The Board members shall have a Chairperson, Vice-Chairperson, Secretary and

Treasurer elected by the Board members, annually.

B. Eligibility

To serve on the Board a person must meet all of the following criteria:

1. A person must be an enrolled member of the Tribe at least eighteen years of age;

2. The appointee must be a person, who would qualify for licensing under the Tribe's Gaming Regulatory Ordinance;

3. No person can serve on the Board who is employed by the Enterprises or any other facility or enterprise conducting Gaming, or any other Federally Recognized Indian Tribe;

4. No person can serve on the Board who is employed by the LTBB Tribal Government or is an elected official of LTBB;

5. No person can serve on the Board within seven (7) years of completion of a sentence or probation upon being convicted of a felony in tribal, state or federal court, unless such conviction has been vacated or overturned.

6. To be considered for a nomination to the board, a person should meet one of the following desired criteria:

i. Three (3) years of business or financial management experience.
ii. Three (3) years of gaming or hospitality management experience.

C. Appointments

1. The Board is appointed by a majority vote of Tribal Council.

2. Board members currently serving shall remain serving until they are either removed or resign.

3. Any Board Member may resign at any time by delivering a written notice of resignation to the Chairperson of the Board.

D. Removal

1. Board members may be removed by a majority vote of Tribal Council.

2. Board members may recommend removal for cause by a super-majority vote of the Board excluding the Board Member in question. Reasons for removal are misconduct, neglect of duties, violations of Tribal law or Board policy including failure to attend three (3) consecutive unexcused Board meetings.

(Source: WOS 2009-012, May 3, 2009, Section VII)

7.508 DUTIES AND AUTHORITY

A. Duties

The Board shall have the following duties in connection with the Enterprises:

1. To employ a General Manager.

2. To employ such necessary staff to carry out Board functions.

3. To approve policies, procedures, plans and budgets for an orderly and efficient running of the operations, which may include the following:

   i. Human Resources policies
   ii. Annual Enterprises Business plan
   iii. Annual operating budget
   iv. Distribution of annual services payments to the Tribal Government

B. Authority

1. The Board shall hire, review, evaluate and may terminate the General Manager.

2. The Board shall monitor compliance of the approved policy and procedures through the General Manager.

3. The Board shall adopt meeting policies and other such policies for Board business and office staff, provided that such policies are in accordance with this statute and approved by the Board.

4. The Board shall adhere to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government that are approved by Tribal Council and any other subsequent Rules, as may apply.

5. The Board shall adhere to the Tribal Minimal Internal Control Standards (TMICS) and all other applicable Statutes and laws.

6. The Board shall adhere to all Policies or Procedures approved by the Board.

7. The Board shall not be involved in the day-to-day management of the operations.

(Source: WOS 2009-012, May 3, 2009, Section VIII)

7.509 REPORTING REQUIREMENTS

A. The Executive shall provide to Tribal Council, a monthly report that contains all financials of the Enterprises including discussion and analysis. The Executive shall provide this report to the Tribal Council by the second Tribal Council meeting of each month.

B. The Executive shall provide to Tribal Council, a quarterly report that contains an updated on the Business Plan, projected net revenues, profit and loss revenues and Earnings before Interest Taxes, Depreciation and Amortization (EBITDA) for not less than three (3) months in

advance based on the Business Plan. This report shall also include, the number of employees, employee turn-over rate, number of Tribal Citizens, Other Natives and non-Natives employed, number of Tribal Citizens, Other Natives and non-Natives employed in management, requests for new development and/or capital projects and any other relevant information.

C. The Tribal Council shall appoint an independent auditor to conduct the annual financial statement audit and minimum internal control testing as required by 25 C.F.R. §§ 522.4 and 571.12 and any other applicable or successor Federal regulations. The Board shall have a right to receive a copy of the annual audit.

D. On a quarterly basis or upon request of Tribal Council, the Board and General Manager shall meet with the Tribal Council and provide an update on operations.

E. Board records shall be open to Tribal Citizens except in matters of confidentiality as defined by Tribal statute.

(Source: WOS 2009-012, May 3, 2009, Section IX)

7.510 FINANCING, BANK ACCOUNTS AND BUDGETS

A. Each year the Board shall present an annual budget of the Board, which shall include all projected expenses of the Board to Tribal Council for approval.

B. The Board is not authorized to incur any financial obligation or liability, other than what is within the Boards approved budget, without prior approval by the Tribal Council.

C. The Board shall have the authority to establish and maintain bank accounts as may be necessary for the operations of the Enterprises.

D. The Director of Finance shall oversee and manage the accounting, finance, cage, count, credit, and cash management of the Enterprises and other directors and managers as appropriate. The Director of Finance shall report directly to the General Manager and shall make all Enterprises financial records available to the Tribe's Chief Financial Officer (CFO) and Tribal Council.

(Source: WOS 2009-012, May 3, 2009, Section X)

7.511 MEETINGS

A. The Board shall hold a meeting or work-session at least once a month.

B. The Board shall develop meeting and work-session policies and procedures.

C. Board meetings shall be open to Tribal Citizens. Closed session may be held only for the purposes of personnel, litigation, confidential business or legal matters, or other matters that raise significant privacy or confidentiality concerns.

D. Notice of meetings or work-session shall be posted forty-eight (48) hours in advance.

E. Board business that requires immediate attention may be conducted by a telephone conference call. Any action taken on such call shall be recorded in the minutes of the next regularly scheduled meeting. The Board Secretary or designee shall attempt to notify each of the Board members of the conference call by any practical means including telephone, fax, e-mail or in person and must certify that an attempt was made to contact each Board member. No compensation will be paid for telephone conference calls.

F. Emergency meetings may only be called when immediate action is necessary for the preservation or promotion of essential interests of the Tribe or the Enterprises. The emergency action taken must be ratified at the next regular meeting of the Board, and the minutes must state the reason such emergency action was necessary.

G. A quorum for a Board meeting shall consist of a majority of the sitting Board members. A meeting may not be called to order without a quorum present and no official business shall be conducted without a quorum.

H. A work-session does not require a quorum. No official action shall be taken at a work-session. Work-session shall remain open and shall not include a closed session.

(Source: WOS 2009-012, May 3, 2009, Section XI)

7.512 COMPENSATION

The Board members shall be compensated, subject to the availability of funds, for the following:

A. One-hundred and fifty dollars ($150.00) per day stipend for attendance at meetings or work sessions that are approved by Board motion.

B. One-hundred dollars ($100.00) per day stipend for attendance at training, conferences or other functions approved by Board motion.

C. Board members shall only receive one stipend per day for activities performed under both subsection (A) and (B) within the same day. The stipend shall not be combined.

D. The Board shall adhere to the Tribal travel policies for reimbursement of travel expenses.

(Source: WOS 2009-012, May 3, 2009, Section XII)

7.513 EMPLOYMENT WITH TRIBAL ENTERPRISES

A member of the Board shall not be employed in any capacity with the Enterprises for a period of forty-five (45) days, after leaving the Board.
(Source: WOS 2009-012, May 3, 2009, Section XIII)

7.514 NEPOTISM

A. For Purposes of this Statute, two (2) or more members of the same immediate family shall not serve on the Board at the same time. Further, a person shall not serve on the Board if the General Manager, Director of Finance, Internal Auditor, Tribal Chairperson or Vice-Chairperson is an immediate family member. For purposes of this section immediate family means husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child or a person whose relationship with the Board member is similar

to that of persons who are related by blood or marriage.

B. No Board member may participate in making any decision that involves a personal or financial interest of the Board member or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

(Source: WOS 2009-012, May 3, 2009, Section XIV)

7.515 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-012, May 3, 2009, Section XV)

7.516 EFFECTIVE DATE

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

(Source: WOS 2009-012, May 3, 2009, Section XVI)

Chapter 6. Investment Statute

7.601 PURPOSE

It is the purpose of the Little Traverse Bay Bands of Odawa Indians (LTBB) to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of the Tribe and to comply with any applicable federal laws or regulations regarding federal program monies received and administered by the Tribe. This statute repeals and replaces WOS 2000-13, WOS 2007-

002.

(Source: WOS 2009-015, June 4, 2009, Section I)

7.602 FUNDS TO WHICH THIS POLICY APPLIES

The Executive is hereby authorized to invest tribal funds in accordance with the this Statute as it applies to all financial assets of LTBB including, but not limited to, funds derived through federally funded contracts and programs, such as Public Law 93-638 contract monies and Native American Housing Assistance Self Determination Act grants, and funds derived from LTBB enterprises. These assets are accounted for in various bank accounts held in the name of LTBB.

(Source: WOS 2009-015, June 4, 2009, Section II)

7.603 INVESTMENTS

A. General Guidelines. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Any fees incurred in making investments shall be paid with income from such investments.

B. Investment of Contract and Grant Monies and Prohibition of Co-Mingling. When making and administering investments under the authority of this Statute, funds received under a specific federal contract or grant, or from any other government or private funding source for specific purposes, must be individually invested and accounted for, and shall not be co-mingled with any other funds. Such funds must be invested in a manner that ensures their availability for expenditure as set out in the contract or grant documents or as determined by the Executive. Short term guaranteed preservation of principal is essential for such funds. The funds will be invested in a manner that maximizes return within the absolute safety and time constraints, such as in money market and certificates of deposit.

C. General Funds. General Funds, including those derived from the enterprises and any other federal fund revenue sources shall be invested in a diversified manner designed to meet

both the short and long term financial needs of LTBB. The Executive shall review the annual budget approved by the Tribal Council to determine the time frames in which LTBB will need to access such funds and prepare an appropriate portfolio to meet cash flow needs and provide for long-term growth.

D. Investment Plan. The Executive shall acquire assistance from persons with a financial background to formulate an investment plan. The plan shall include but not limited to the following:

1. An assessment of the amount of risk the Tribe is willing to accept according to the then current economic conditions. Diversify into cash, stocks, index, and money market types of funds.

2. A determination of the amount of investment loss the Tribe is willing to accept. An example would be a loss of five percent (5%) on a ten (10) million dollar investment would be five hundred-thousand dollars ($500,000). When the amount of loss is reached, some stock funds should be removed and held in cash or a money market type account. When the market settles or a bottom is reached, reinvestment should be made in stocks.

3. ETF-Exchange Traded Fund that tracks an index, but can be traded like a stock. Exchange traded funds always bundle together the securities that are in the index.

4. Index fund-A passively managed mutual fund that tries to mirror the performance of a specific index. i.e. The S&P 500.

5. Private Equity-An asset class of equity securities in operating companies that are not publically traded.

6. SPDR-Shares of a security designed to track the value of the S&P 500.

7. TIP- Treasury inflation protected security issued by the U.S government.

8. FDIC or FSLIC insured savings accounts, money market accounts and certificates of deposit with major depositories possessing capital and surplus of two

billion or more, or one of the top 200 banks.

9. Commercial paper having a rating of A2/P1.

10. Fixed income securities that are classified as investment grade by Standard & Poor's; (BBB or better) and by Moody's (BAA or better).

11. Publicly traded stocks, bonds and mutual funds that are properly registered with the Securities and Exchange Commission, and given the highest ratings by Moody's and Standard & Poor's.

E. **INVESTMENT FUND REQUIREMENTS**

1. When investments are doing well, profits should be removed. A market decline cannot be predicted however some profits may be recaptured when available.

2. Hire or retain a financial expert that is a registered representative that works for a fee and not a commission. This expert should monitor our investment accounts at least twice a year to determine risk and diversification. The Executive may use an in-house expert, if available.

3. The Executive shall submit all financial plans to Tribal Council for approval prior to implementation of the plan.

F. Prohibited Investments. The Executive shall not invest any Little Traverse Bay Bands of Odawa Indians funds in commodities, private placements, letter stock or engage in short sales or margin transactions or derivatives and venture capitol.

(Source: WOS 2009-015, June 4, 2009, Section III)

7.604 REPORTING

A. The Executive shall meet with the Appropriations and Finance Committee annually or at

such time as requested by the Appropriations and Finance Committee to review the prior year's investment performance.

B. The funds that have been invested can only be withdrawn or expended by prior approval of Tribal Council.

(Source: WOS 2009-015, June 4, 2009, Section IV)

7.605 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.

(Source: WOS 2009-015, June 4, 2009, Section V)

7.606 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2009-015, June 4, 2009, Section VI)

Chapter 7. Hotel Room Tax

7.701 PURPOSE

The purpose of this Statute is to raise revenues for the Little Traverse Bay Bands of Odawa Indians through the imposition of a LTBB use tax on rooms rented to non-LTBB members at Tribally owned facilities.

(Source: WOS 2003-04, May 18, 2003, Section I)

7.702 DEFINITION

For purpose of this Statute "**Hotel**" means any facility wholly owned by the Little Traverse Bay Bands of Odawa Indians that offers rental lodging to members of the public and is exempt from imposition of Michigan sales or use tax on rooms under the Tax Agreement executed on December 20, 2002, or any successor agreement.

(Source: WOS 2003-04, May 18, 2003, Section II)

7.703 ROOM TAX

The Little Traverse Bay Bands of Odawa Indians imposes a 6% use tax on the price of Hotel rooms rented to non-LTBB members. This tax shall be separately itemized and accounted for in the total charge to such patrons, and placed in such accounts as directed by the LTBB Tribal Council.

(Source: WOS 2003-04, May 18, 2003, Section III)

7.704 USE OF FUNDS

The funds collected under the authority of this Statute shall be used by the Tribal Government for discretionary use as determined by Tribal Council.

(Source: WOS 2003-04, May 18, 2003, Section IV)

7.705 EFFECTIVE DATE

This Statute takes effect immediately and in the event any Hotels have collected a sales tax after March 1, 2003, all such tax shall be disbursed to the Tribe in accordance with this Statute.

(Source: WOS 2003-04, May 18, 2003, Section V)

Chapter 8. Odawa Economic Development Management

7.801 PURPOSE AND TITLE

A. Purpose. The Little Traverse Bay Bands of Odawa Indians (the "Tribe") exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

B. Short Title. This Statute shall be known and cited as the "Economic Management Statute."

(Source: WOS 2009-24, July 26, 2009, Section I)

7.802 DEFINITIONS

A. "*Gaming Commercial Enterprises"* means the Odawa Casino Resort and ancillary enterprises and activities, including the Odawa Casino Resort, related hotel and restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

B. *"Non-gaming Economic Affairs"* means economic development enterprises and activities not related to the gaming commercial enterprises.

C. "*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means *"areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

D. *"Tribe"* or *"LTBB"* means the Little Traverse Bay Bands of Odawa Indians.

E. *"Tribal Constitution"* means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

F. *"Tribal Council"* means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. "Tribal Council".

(Source: WOS 2009-24, July 26, 2009, Section II)

7.803 CREATION OF THE ODAWA ENTERPRISE MANAGEMENT, INC. CORPORATE CHARTER

A tribally charted corporation is authorized by this Statute and shall be named the "Odawa Economic Development Management, Inc." The organization is recognized by the approval of the tribal corporation charter; "Odawa Economic Development Management, Inc" by Tribal Council.

(Source: WOS 2009-24, July 26, 2009, Section III)

7.804 SCOPE OF ACTIVITIES

A. The Odawa Economic Development Management, Inc. is authorized to conduct enterprise activities at the following locations:

1. Commercial site located at 1966 US 131 South, Petoskey, Michigan.
2. Commercial site located at 1020 S Nicolet St, Mackinaw City, Michigan
3. Other such properties, enterprises or activities as designated and approved by Tribal Council.

B. The Odawa Economic Development Management, Inc. shall be assigned those assets as existed and are currently within the designated commercial sites including real property, tangible

and intangible properties. Such assets shall be held by the Odawa Economic Development Management, Inc. on behalf of the Tribe and shall be managed to provide long term revenue for Tribal governmental programs and activities. The assets assigned in this Statute shall be independently managed by the Odawa Economic Development Management, Inc.

(Source: WOS 2009-24, July 26, 2009, Section IV)

7.805 MANAGEMENT; STRUCTURE AND FUNCTION

A. The Odawa Economic Development Management, Inc. shall have sole authority and responsibility for managing the Odawa Economic Development Management, Inc. and related enterprise, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

B. The Odawa Economic Development Management, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

C. It is the duty of the Odawa Economic Development Management, Inc. to monitor activities and operations to provide guidance to the management of the operations.

D. It is the duty of the Odawa Economic Development Management, Inc. to protect assets of the Tribe and generate revenues to support Tribal Governmental Services and Programs.

(Source: WOS 2009-24, July 26, 2009, Section V)

7.806 REPORTING TO TRIBAL COUNCIL

In order to regulate, the Odawa Economic Development Management, Inc. shall report to the Tribal Council on the following information regarding the Odawa Economic Development Management, Inc. and at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, at least quarterly or as requested:

A. Annual operating plan;

B. Financial performance measures;

C. Audits, whether internal or external;

D. Financial records or statements;

E. Tribal Council may request reports regarding all aspects of the Odawa Economic Development Management, Inc.

(Source: WOS 2009-24, July 26, 2009, Section VI)

7.807 FINANCING OF THE ODAWA GAMING ENTERPRISE MANAGEMENT, INC. AND ACTIVITIES

A. The annual budget for the Odawa Economic Development Management, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.

B. Tribal Council approval is required for borrowing of funds. The Odawa Economic Development Management, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2009-24, July 26, 2009, Section VII)

7.808 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-24, July 26, 2009, Section VIII)

7.809 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2009-24, July 26, 2009, Section IX)

TITLE VIII. HOUSING

Chapter 1. Housing Commission

8.101 SHORT TITLE, PURPOSE, AND REPEAL OF PRIOR STATUTE

A. Short Title. This Statute may be cited as the "Housing Commission Act."

B. Purpose. The purpose of this Statute is to set up a Housing Commission that will act in an advisory capacity to the Tribal Council in the research, funding, development and monitoring of Tribal housing.

C. Repeal of Prior Statute. The Little Traverse Bay Bands of Odawa Indians Odawa Housing Council Ordinance (Waganakising Odawak Statute 1997003), and all amendments thereto, are hereby repealed as of the effective date of this Statute.

(Source: WOS 1998009, June 21, 1998, Section I)

8.102 CREATION OF THE HOUSING COMMISSION

A. Creation of Commission. The Tribal Council hereby creates the Housing Commission, which shall consist of seven (7) LTBB Tribal members at least eighteen years of age appointed by the Tribal Council. Members of the Tribal Council may be appointed to the Commission.

B. Term and Compensation. Members of the Housing Commission shall be appointed to serve for four (4) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, three people shall be appointed to three (3) year terms, and four people shall be appointed to four (4) year terms. All appointments thereafter shall be for four (4) year terms. The Commission shall appoint separate individuals from within the Commission to serve as chairperson, vice-chairperson, and secretary for terms of (2) years. There shall be no limit on reappointment. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners. The term of office shall extend until a person's replacement is sworn in or the person is reappointed.

C. Oath of Office. Upon appointment, the Tribal Court shall administer the oath of office to the members of the Housing Commission 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 Statute.

D. Vacancies. In the event a vacancy occurs in the Housing Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal member to fill the remaining term of office.

E. Removal. Commission members may be removed for the reasons, and following the procedures set out in the Removal of Commissioners and Nepotism Statute (Waganakising Odawak Statute 1997005), or such successor statute as the Tribal Council may enact and make applicable to the Commission.

F. Continuation of Current Housing Council Appointees. The members of the Board of the Odawa Housing Council who are serving under Waganakising Odawak Statute 1997003 on the effective date of this Statute are deemed members of the Housing Commission to serve until the date that their terms would have expired under Waganakising Odawak Statute 1997003 or until a successor is sworn in to replace them.

(Source: WOS 1998009, June 21, 1998, Section II)

8.103 DUTIES OF THE HOUSING COMMISSION

The Housing Commission shall have the following duties:

A. Develop proposed plans and policies for the development of Tribal housing that will provide for diverse, aesthetically pleasing, healthy, and environmentally sound residential communities for Tribal members of all income levels, and recommend such proposals and plans to the Tribal Council for approval.

B. The Commission will be responsible for preparation of all proposals and documents that must be submitted to the United States Department of Housing and Urban Development for the Tribe to receive funds under the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. § 4101 *et. seq.,* and shall present such proposals and documents to the Tribal Council for review and submission by the Tribal Council on behalf of the Tribe.

C. The Commission shall attempt to find additional sources of funding for Tribal housing, shall prepare all proposals and documents that must be submitted to apply for and receive such funding and shall present such proposals and documents to the Tribal Council for review and submission by the Tribal Council on behalf of the Tribe.

D. The Commission shall develop proposed rules and regulations for the administration and maintenance of Tribal housing including eligibility, rent, eviction, and repairs, and present such proposals to the Tribal Council.

E. The Housing Commission is authorized to enter into and hold leases of parcels of property leased from the Tribe to the Housing Commission. When authorized by Tribal Council resolution, the Housing Commission may grant leasehold mortgages to lending institutions and/or enter into such other security agreements as necessary to secure loans. When authorized by Tribal Council resolution, the Housing Commission may enter into sublease agreements. Any instruments requiring Bureau of Indian Affairs approval under applicable law or regulation shall only be effective upon such approval.

(Source: WOS 1998009, June 21, 1998, Section III; subsection E added by WOS 2001-01, February 4, 2001)

8.104 STAFFING

The Commission shall work in conjunction with the Tribal housing director and housing staff in carrying out its duties.

(Source: WOS 1998009, June 21, 1998, Section IV)

8.105 MEETINGS, VOTING

A. Meetings. The Housing Commission may meet as often as they deem necessary but must meet at least once each quarter.

B. Voting. Actions of the Housing Commission shall be decided by a majority vote of those present at the meeting. The Chairperson is entitled to vote on all matters before the Commission. A quorum shall consist of four (4) members including the Chairperson. Provided, an action may be ratified by non-attending members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Commission meeting.

(Source: WOS 1998009, June 21, 1998, Section V)

8.106 EFFECTIVE DATE

This Statute shall take effect on July 1, 1998.

(Source: WOS 1998009, June 21, 1998, Section VI)

8.107 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, 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.

(Source: WOS 1998009, June 21, 1998, Section VII)

Chapter 2. Foreclosure

8.201 JURISDICTION / LIMITED WAIVER OF SOVEREIGN IMMUNITY LIMITATIONS

A. Jurisdiction.

The Tribal Court of The Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) shall have exclusive jurisdiction over all foreclosure actions arising on all lands located within the exterior boundaries of the LTBB Reservation on trust lands, lands owned in fee by the Tribe, and any other property within the Reservation containing housing owned or financed by LTBB.

B. Limited Waiver of Sovereign Immunity.

The LTBB Tribe hereby authorizes a limited waiver of immunity from suit, with respect to specific controversies or claims derived in this section that may arise out of the LTBB Tribe under a mortgage assumption pursuant to Sections II (F)(2) or Section II(L) of this Code [WOTC 8.202(F)(2); 8.202(L)]. In connection with such limited waiver, the LTBB Tribe consents solely to the jurisdiction of the LTBB Tribal Courts with respect to (a) actions in equity brought by any party to such mortgage or lease seeking specific performance of any of the LTBB Tribe's express obligations thereunder and (b) actions at law for actual damages which shall consist exclusively for remaining sums secured by a mortgage. This waiver of immunity is not intended, or shall it be construed (a) to extend to any claim for punitive or compensatory damages, (b) to waive the LTBB Tribe's

immunity from suit for any other purpose or with respect to any controversy, claim, or other matter not specifically mentioned in this section, or (c) to extend to the benefit of any person other than the parties to the Documents or their successors or assigns. This limited waiver of immunity from suit shall not be construed as an admission of liability of the LTBB Tribe to any claim for damages or as an agreement or willingness to pay any amount as damages absent a judicial determination of liability, and the LTBB Tribe shall have the right to defend any of such claim fully on the merits.

(Source: WOS 2000-03, April 16, 2000, Section I)

Chapter 3. Mortgage of Trust or Restricted Land

8.301 PURPOSE

The purpose of this Code is to assist Tribal members in obtaining mortgage financing for the purchase of residences and businesses on Trust Lands or Restricted Lands within the jurisdiction of the LTBB Tribe, by prescribing procedures relating to recordation and foreclosure in connection with Mortgages given to secure loans made by Mortgagees.

(Source: WOS 2000-03, April 16, 2000, Section II)

8.302 DEFINITIONS

A. "**Lease**" shall mean a ground lease or other agreement for use of Trust Land or Restricted Land on which a Mortgage has or will be given.

B. "**Leasehold Estate**" shall mean a leasehold estate established pursuant to a Lease between the Tribe, as Lessor and a member of the Tribe as Tenant.

C. "**Lessor**" shall mean the Tribe or a Tribal member who leases an interest in property within the Reservation to a lessee. The Tribe shall be the beneficial or equitable owner of certain Trust land or restricted Land underlying a Leasehold Estate on Which a Mortgage has been given. The Lessor shall include the successor(s) or assign(s) of such Lessor.

D. "**Mortgage**" shall mean the first-lien mortgage of a beneficial real property interest in Trust Land or Restricted Land given to secure a mortgage loan made by a Mortgagee.

E. "**Mortgagee**" shall mean any mortgage lender or any successors or assigns of any such lender. This definition also includes any subsequent holder, whether by assignment, succession or otherwise, of the original Mortgagee's right, title or interest in and to the Mortgage and/or the Mortgaged property, together with the improvements.

F. "**Mortgage Foreclosure Proceeding**" shall mean a proceeding in the LTBB Tribal Court: (i) to foreclose the interest of the Mortgagor(s) and each person or entity claiming through the Mortgagors in Trust Land or Restricted Land on which a mortgage has been made by a Mortgagee; and/or (ii) to assign such interest of the Mortgagor to the Mortgagee or the Mortgagee's successors or assigns.

G. "**Mortgagor**" shall mean the Tribe or any eligible tribal member or entity borrower who has executed a mortgage on its beneficial interest in Trust Land or Restricted Land, including any heir(s), successor(s), executor(s) or assign(s) of such borrower.

H. "**LTBB" or "Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians, a Federally recognized Indian tribe as reaffirmed under Public Law 103-324, 25 U.S.C. § 1300k.

I. "**Restricted Land**" shall mean land within the jurisdiction of the LTBB Tribe that is subject to restrictions against alienation imposed by Federal Treaty, Statute, Executive Order, or to the LTBB Tribe.

J. **"Reservation"** shall mean all lands within the boundaries of the reservations for Little Traverse as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those

boundaries which are now or in the future declared to be Little Traverse reservation by the Department of the Interior.

K. "**Subordinate Lienholder**" shall mean the holder of any lien, including a mortgage perfected subsequent to the recording of a Mortgage under this Code; provided however, such definition shall not include the LTBB Tribe with respect to a claim for a Tribal tax on the Mortgaged property, where applicable.

L. "**Tenant**" shall mean any person who occupies Trust land or Restricted Land, as lessee, under a Leasehold Estate with the Lessor.

M. "**Tribal Court**" shall mean: (i) the LTBB Tribal Court; or (ii) such body as may now or hereafter be authorized by the laws of the LTBB Tribe to exercise the powers and functions of a court of law.

N. "**Tribal Member**" shall mean any person recognized as being an LTBB member by the LTBB Tribal Council.

O. "**Tribal Realty Officer**" shall mean the person designated by the LTBB Tribe to perform the recording functions required by this document or any deputy or designee of such person.

P. "**Tribe**" refers to the Little Traverse Bay Bands of Odawa Indians Tribe.

Q. "**Trust Land**" shall mean land within the jurisdiction of the LTBB Tribe, title to which is held by the United States for the benefit of the Tribe or an individual member of the LTBB Tribe.

(Source: WOS 2000-03, April 16, 2000, Section II)

8.303 MORTGAGE OF LEASEHOLD ESTATE

Any Tribal member who is a tenant as defined in this Code may, with approval of the Lessor, mortgage the leasehold estate for the purpose of obtaining home or business

financing on said land.

A. Priority.

A Mortgage recorded in accordance with the recording procedures set forth in this Code shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim (except a lien or claim arising from a Tribal tax assessed against property subject to the Mortgage).

B. Recording.

1. The recording of Mortgages and Leases on Trust land or Restricted land shall be at the Bureau of Indian Affairs Area land Titles and Records Office.

2. Where a Mortgagee requires that a Lease or Mortgage on Trust land or Restricted Land also be recorded in the county recorder's office in the state in which the Mortgaged properties are located, the lease or mortgage shall also be recorded at such county recorder's office.

3. The Tribal Realty Officer shall maintain in the Tribal Court, or other designated office, a system for the recording of Mortgages and such other documents as the LTBB Tribe may designate by law or resolution including, without limitation, any Lease.

4. The Tribal Realty Officer shall endorse upon any Lease and/or Mortgage or other document received for recording the following:

a. The date and time or receipt of the Lease and/or Mortgage or other document;

b. The filing number, to be assigned by the Tribal Realty Officer, which shall be a unique number for each Lease and/or Mortgage or other document received; and

c. The name of the Tribal Realty Officer receiving the Lease and/or Mortgage or other document.

5. Upon completion of the above endorsements, the Tribal Realty Officer shall make true and correct copies of the Lease and/or Mortgage or other security instrument and shall certify each copy as follows:

LTBB Tribe) ss.
I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this _____ day of _____
(SEAL)

_____
Signature

_____
Title

6. The Tribal Realty Officer shall maintain such copies in the records of the recording system and shall return the original Lease and/or Mortgage or other document to the person or entity that presented the same for recording.

7. The Tribal Realty Officer shall also maintain a log of each Lease and/or Mortgage or other document recorded in which there shall be entered the following:

a. The name(s) of the Mortgagor(s) of each Mortgage, identified as such;

b. The name(s) of the Mortgagee(s) of each Mortgage, identified as such;

c. The name(s) of the grantor(s), grantee(s) or other designation of each party named in any other documents including any Lease;

d. The date and time of receipt;

e. The filing numbers assigned by the Tribal Realty Officer; and

f. The name of the Tribal Realty Officer receiving any Lease, Mortgage or other document.

8. The certified copies of any Leases, Mortgages and other documents and the log maintained by the Tribal Realty Officer shall be made available for public inspection and copying.

C. Pre-Foreclosure Notice.

1. Upon the default of the Mortgagor(s) and at least ten (10) days prior to instituting foreclosure proceedings, the Mortgagee shall notify the LTBB's Designated Housing Department or Entity in writing of its intention to pursue foreclosure. Such notice must be hand-delivered or sent by certified mail to the Executive Director of the LTBB's Designated Housing Department or Entity.

2. Upon such notice, and upon the expiration of an applicable cure period provided Lessee under a mortgage or security instrument, the Lessor or its Designated Housing Department or Entity shall have the right of first refusal to acquire the Leasehold Estate (subject to all valid liens and encumbrances) prior to the commencement of foreclosure proceedings.

3. The right of first refusal shall be exercised within twenty (20) days from receipt of the Lender's written notice.

D. Mortgage Foreclosure Proceedings.

1. Upon the default of the Mortgagor(s), and upon expiration of any applicable cure periods under a Mortgage and expiration of the Lessor's first right of refusal in the preceding section, the Mortgagee, or its successors and assigns, may commence a Mortgage foreclosure proceeding in the Tribal Court as follows:

a. By filing a verified complaint:

i. Citing authority for jurisdiction of the Tribal Court;

ii. Naming the Mortgagor(s) and each record owner claiming through the Mortgagor(s) subsequent to the recording of the Mortgage, including each Subordinate Lienholder (except the LTBB tribe with respect to a claim for a Tribal tax on the Mortgaged property), as a defendant;

iii. Describing the property subject to the Mortgage;

iv. Stating the facts concerning: (1) the execution of any Lease and/or the Mortgage; (2) the recording of the Mortgage; and (3) the alleged default(s) of the Mortgagor(s) and any other facts as may be necessary to constitute a cause of action;

v. Having appended as exhibits true and correct copies of each promissory note, Lease, if any, Mortgage, and if applicable, assignment thereof relating to such Mortgaged property; and

vi. Including an allegation that all relevant requirements and conditions prescribed in the Mortgage and the Lease, if any, have been complied with by the Mortgagee or its successors or assigns.

b. By obtaining a summons, issued as in other cases, requiring the Mortgagor(s) and each other person or entity claiming through the Mortgagor as defendants to appear for a trial upon the complaint on a date and time specified in the summons, and filing a copy of such summons with the Tribal Court.

E. Service of Process and Procedures.

The laws of the LTBB Tribe governing services of process and all other matters relating to the conduct of Tribal Court proceedings shall apply to any Mortgage Foreclosure Proceeding pursuant to this Code.

F. Dismissal of Foreclosure Upon Payment by Mortgagor.

1. The foreclosure proceeding shall be dismissed if the borrower, before judgment, tenders to the Mortgagee, or its successors or assigns, payment of the total amount required to be tendered, including costs of the filing of a civil action.

2. Notice of Tender. To invoke this section, the Mortgagor must tender payment to the Mortgagee or its successors or assigns and file with the Court a notice of tender, indicating that the Mortgagor is tendering the amount described below.

3. Amount required to be tendered. The amount tendered shall consist of the following:

a. Arrearage. The arrearage amount shall be the sum of the monthly payments missed up to and including the date of the tender.

b. Costs and fees. Reasonable costs and fees, including attorneys fees, determined by the Court, but in no event shall they exceed costs actually incurred.

c. Acceleration clauses prohibited. Under no circumstances may the amount required to be tendered include any amounts due pursuant to an acceleration clause. This shall not prohibit the Mortgagee from charging late fees.

4. Disputes regarding cost. Where the Mortgagor and Mortgagee or its successors and assigns are unable to agree on reasonable costs and fees, the Mortgagor shall nonetheless file its notice of tender and tender payment of costs and fees to the Court, indicating that the amount is disputed. The Mortgagee shall

file a fee petition with the Court within five (5) business days of the filing of the notice of tender. The Court shall stay the proceedings for no longer than twenty (20) days pending resolution of the dispute.

5. **Dismissal of stay**. Where the court's determination of reasonable costs and fees exceeds the amount tendered, the stay shall be lifted if the Mortgagor fails to file a revised notice of tender.

G. Cure of Default by Subordinate Lienholder.

Prior to the entry of a judgment of foreclosure of a Mortgage pursuant to this Ordinance, any Mortgagor or any Subordinate Lienholder may cure the default(s) under the Mortgage. Any subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such Subordinate Lienholder to cure such default(s), plus interest on such amounts at the rate stated in the promissory note evidencing the subordinate lien.

H. Power of the Tribal Court.

If the alleged default(s) have not been cured, judgment shall be entered:

1. Foreclosing the Mortgagor's interest in the Mortgaged property, and each other defendant named in the complaint upon whom proper and timely service has been made, including each Subordinate Lienholder; and

2. Assigning such Mortgaged property to the Mortgagee or the Mortgagee's successor or assignee and order sale of the residential property, or of a subset of the property that will suffice to satisfy the judgment. The Mortgagee must ensure that the price for which the property is sold is commercially reasonable. If the sales price is greater than the amount of the judgment, then the Mortgagee shall provide the difference to the Mortgagor within ten (10) days of the Mortgagee's receipt of the money.

I. Right of First Refusal During Foreclosure.

1. The LTBB Tribe or its Designated Housing Department or Entity shall have the right of first refusal regarding all property to be sold pursuant to these foreclosure proceedings.

2. Notice to the LTBB Tribe. Upon commencement of judicial foreclosure proceedings, the Mortgagee or its successors or assigns shall give written notice by certified mail, or these proceedings to the LTBB Tribe.

3. Right to Conduct an appraisal. The LTBB Tribe may conduct an appraisal of the property during or immediately after the foreclosure process. If the property in question is occupied the LTBB Tribe will make all reasonable efforts to respect the privacy of the homeowner, but the homeowner may not unreasonably interfere with the LTBB Tribe's right to conduct the appraisal.

4. Exercising the right to purchase after foreclosure. Upon entry of an order of foreclosure, a copy of the court order shall be served on the Office of the Chairperson or Housing Department or Entity, or on another agent designated by the LTBB Tribal Council to receive such notice. Within twenty (20) working days of the service of the order, the LTBB Tribe may provide written notice to the Mortgagee or its successors or assigns that the LTBB Tribe elects to purchase the residential property for the amount of the judgment, or for some other amount agreed upon by the LTBB Tribe and the Mortgagee. At the same time the LTBB Tribe provides such notice to the Mortgagee, or at some other time agreed upon by the LTBB Tribe and the Mortgagee, the LTBB Tribe must tender payment. If the amount paid is less than the commercially reasonable price of the house, the LTBB Tribe will pay the difference to the Mortgagor. If the LTBB Tribe does not exercise its right to purchase the property within twenty (20) days of the date of service of the court order, the LTBB Tribe will be deemed to have waived its right of first refusal.

(Source: WOS 2000-03, April 16, 2000, Section II)

Chapter 4. Evictions

8.401 JURISDICTIONAL / LIMITED WAIVER OF SOVEREIGN IMMUNITY / LIMITATIONS

A. Jurisdiction.

The Tribal Court of The Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) shall have exclusive jurisdiction over all eviction actions arising on all lands located within the exterior boundaries of the LTBB Reservation on trust lands, lands owned in fee by the Tribe, and any other property within the Reservation containing housing owned or financed by LTBB.

B. Limited Waiver of Sovereign Immunity.

LTBB hereby authorizes a limited waiver of immunity from suit, with respect to specific controversies or claims described in this section that may arise out of or relate to LTBB's obligation under a mortgage or lease entered into by LTBB under a mortgage assumption pursuant to Sections II (F)(2) or Section II(L) [WOTC 8.202(F)(2); 8.202(L)of the Foreclosure Code of the LTBB. In connection with such limited waiver, LTBB consents solely to the jurisdiction of LTBB Tribal Courts with respect to (a) actions in equity brought by any party to such mortgage or lease seeking specific performance of any of LTBB's express obligations thereunder and (b) actions at law for actual damages which shall consist exclusively for remaining sums secured by a mortgage. This waiver of immunity is not intended, or shall it be construed (a) to extend to any claim for punitive or compensatory damages, (b) to waiver LTBB's immunity from suit for any other purpose or with respect to any controversy, claim, or other matter not specifically mentioned in this section, or (c) to extend to the benefit of any person other than the parties to the documents or their successors or assigns. This limited waiver of immunity from suit shall not be construed as an admission of liability of LTBB as to any claim for damages or as an agreement or willingness to pay any amount as damages or as an agreement or willingness to pay any amount as damages absent a judicial determination of liability, and LTBB shall have the right to defend any of such claim fully on the merits.

(Source: WOS 2000-04, April 16, 2000, Section I)

Chapter 5. Eviction Procedures

8.501 PURPOSE

The purpose of this Code is to prescribe procedures relating to evictions in connection with leases, subleases or other land assignments or interests made by LTBB, LTBB's Designated Housing Department or Entity or any owner of land or leasehold interest.

8.502 DEFINITIONS

A. **"Lease**" shall mean a ground lease or other agreement for use of Land or other real property.

B. "**Leasehold Estate**" shall mean a leasehold estate established pursuant to a Lease between an owner of land or land interest as Lessor, and a third party as Tenant.

C. "**Lessor**" shall mean the owner of land or land interest, including the Tribe. The Tribe shall be the beneficial or equitable owner of certain Trust Land or Restricted Land underlying a Leasehold Estate on which a Mortgage has been given, The Lessor shall include the successor(s) or assign(s) of such Lessor.

D. "**Mortgage**" shall mean the first-lien mortgage of a beneficial real property interest in Trust Land or Restricted Land given to secure a mortgage loan made by a Mortgagee.

E. "**Mortgagee**" shall mean any mortgage lender or any successors or assigns of any such lender. This definition also includes any subsequent holder, whether by assignment, succession or other wise, of the original Mortgagee's right, title or interest in and to the Mortgage and/or the Mortgaged property, together with the improvements.

F. "**Mortgagor**" shall mean any eligible tribal member or entity borrower who has executed a Mortgage on its beneficial interest in Trust Land or Restricted land, including

any heir(s), successor(s), executor(s), administrator(s) or assign(s) of such borrower.

G. "**Nuisance**" shall mean maintenance on the Mortgaged property of a condition which:

a. Unreasonably threatens the health or safety of the public or neighboring land users; or

b. Unreasonably and substantially interferes with the ability of neighboring real property users to enjoy the reasonable use and occupancy of their property.

H. "**LTBB" or "Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians, a Federally recognized Indian tribe as reaffirmed under Public Law 103-324, 25 U.S.C. § 1300k.

I. **"Reservation"** shall mean all lands within the boundaries of the reservations for Little Traverse as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse reservation by the Department of the Interior.

J. "**Restricted Land**" shall mean land within the jurisdiction of LTBB that is subject to restrictions against alienation imposed by Federal Treaty, Statute, Executive Order, or LTBB.

K. "**Subordinate Lienholder**" shall mean the holder of any lien, including a mortgage, perfected subsequent to the recording of a mortgage under this Code; provided, however, such definition shall not include the Little Traverse Bay Bands of Odawa Indians with respect to a claim for a Tribal tax on the Mortgaged property, where applicable.

L. "**Tenant**" shall mean any person who occupies Trust land or Restricted Land, as

Lessee, under a Leasehold Estate with the Lessor.

M. "**Tribal Court**" shall mean: (i) the LTBB Tribal Court; or (ii) such body as may now or hereafter be authorized by the laws of LTBB to exercise the powers and functions of a court of law.

N. "**Trust Land**" shall mean land within the jurisdiction of LTBB, title to which is held by the United States for the benefit of the Tribe or an individual member of LTBB.

O. "**Unlawful Detainer Action**" shall be a suit brought before the Tribal Court to terminate a Mortgagor's or Tenant's interest in Trust Land or Restricted Land and/or to evict any person from occupancy of such a property.

P. "**Waste**" shall mean spoil or destruction of land, buildings, gardens, trees or other improvements on the Mortgaged property which result in substantial injury to such property.

Q. "**Writ of Restitution**" is an order of the Tribal Court Restoring an owner, Lessor, Mortgagee (or other successor in interest) to possession of Trust Land or Restricted Land subject to a Mortgage; and Evicting a Tenant or other occupant from such property.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.503 UNLAWFUL DETAINER

A Tenant or other occupier of a beneficial interest in Trust Land or Restricted Land subject to a Mortgage or Lease shall be guilty of unlawful detainer if such person shall continue in occupancy of such property under any of the following situations:

A. Without the requirement of any notice by LTBB or Lessor:

1. After the expiration of the term of any Lease or Sublease;

2. If such person has entered onto or remains on the real property or another

without the permission of the owner and without having any substantial claim under a Lease or title to such property;

3. After the Lessor has terminated such person's tenancy pursuant to the Lessor's procedures; or

4. After a Mortgagor's interest in Trust land or Restricted land has been foreclosed in a Mortgage foreclosure Proceeding in the Tribal Court.

B. After having received at least seven (7) days notice of termination and notice to vacate the premises, the Tenant or occupier remains in possession of such property contrary to the terms of the notice as follows:

1. When such person has received notice: (i) that he or she is in default in the payment of ground or unit rent; and (ii) requiring him or her to either pay such rent or surrender possession of the occupied property and such person has not either surrendered possession of such property or paid the rent within the time period provided in such notice;

2. When such person shall continue to fail to keep or perform any condition or covenant of any Lease or other use agreement under which the property is held after he or she has been given notice to comply with such condition or covenant or else to surrender the property; or

3. When such person continues to commit Waste upon or maintain a Nuisance upon the occupied property after having been given notice to either cease such Waste or maintenance of Nuisance or to surrender the property; or

4. When such person violates a material covenant of any Lease designed to protect the health and safety of persons.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.504 PROCEDURES FOR SERVICE OF NOTICE

Notices required or authorized in the immediately preceding section shall be given in accordance with established Tribal Court rules and procedures or policies of LTBB's Designated Housing Department or Entity. In the absence of such rules and procedures, notices shall be given in writing by either:

A. Delivering a copy personally to the Tenant or occupier or to any adult members of his or her family residing on the Leased or Mortgaged property; or

B. Posting said notice in a conspicuous place near the entrance to said property, and by sending an additional copy to the Tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.

C. Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of either of these two methods of service.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.505 COMPLAINT AND SUMMONS

A. The Lessor of the Mortgagee (including its successors or assigns) shall commence an action for eviction by filing with the Tribal Court, in writing, the following documents:

1. A complaint, signed by the Lessor, the Mortgagee (or its successors or assigns), or an agent or attorney on their behalf including the following:

a. Citing authority for jurisdiction of the Tribal Court;

b. If the property is mortgaged, naming the Mortgagor(s) and each record owner claiming through the Mortgagor(s) subsequent to the recording of the Mortgage, including each Subordinate Lien holder (except LTBB with respect to a claim for a Tribal tax on the property

subject to the Mortgage), as a defendant;

c. Describing the property subject to the Mortgage or Lease;

d. Stating the facts concerning (1) the execution of any Lease and/or the Mortgage; (2) the recording of any Mortgage; and (3) the facts upon which he or she seeks to recover; and

e. Stating any claim for damages or compensation due from the persons to be evicted.

2. A copy of the summons, issued in accordance with established Tribal Court rules and procedures. In the absence of such rules and procedures for the issuance of a summons, the summons shall require defendants to appear for trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall be no less that six (6) nor more than twenty (20) days from the date of service of the summons and complaint. The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the court an answer and appear for trial at the time, date and place specified in the summons.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.506 SERVICE OF SUMMONS AND COMPLAINT

A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Tribal court rules for service of process in civil matters. In the absence of such Tribal Court rules, the summons and complaint shall be served by one of the two methods provided in Article II, Section 3 [WOTC 8.302(C)] above.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.507 POWER OF THE TRIBAL COURT

A. The only issue on an action for eviction shall be the right of actual possession. A lender who has foreclosed on a leasehold estate shall be deemed to have the right to actual possession. The merits of ownership of land interest shall be an issue to be determined by the laws and custom of LTBB. An action for eviction may not be brought in connection with any other action, nor may it be made the subject of any set off or counter claim.

B. The Tribal Court shall enter a Writ of Restitution if:

1. Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided herein; and

2. The Tribal Court:

a. finds that the occupier of the property subject to the Mortgage or Lease is guilty of an act of unlawful detainer; or

b. determines that the Tenant failed to respond to the complaint.

C. Upon issuance of a Writ of Restitution the Tribal Court shall have the authority to enter against the defendants a judgement for the following: (1) back rent, unpaid utilities, and any charges due the Lessor under any lease or occupancy agreement; (2) any and all amounts secured by the Mortgage that are due the Mortgagee (or its successors or assigns); (3) damages caused by the defendants to the property other than ordinary wear and tear; and (4) costs and reasonable attorney's fees incurred in bringing suit.

D. At the hearing where the eviction is ordered, the Court shall inform the defendant that if he/she does not vacate the premises voluntarily by the effective date, he/she will be subject to forcible eviction, and his/her property will be subject to storage, sale and disposal as set forth in Section I below.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.508 ENFORCEMENT

Upon issuance of a Writ of Restitution, Tribal law enforcement officers shall within five (5) days enforce the Writ of Restitution by removing the defendants and their personal property from the property which is unlawfully occupied, and levy damages and costs incurred by the Police Department in such removal. In cases involving a Mortgagee (or its successors or assigns), the Writ or Restitution shall be enforced no later than sixty (60) days after the date of service of the summons and complaint, subject to Section 8 [H] below.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.509 CONTINUANCE IN CASES INVOLVING THE MORTGAGE

Except by agreement of all parties, there shall be no continuances in cases involving the Mortgagee (or its successors or assigns) which will interfere with the requirement that the Writ of Restitution be enforced not later than sixty (60) days from the date of service of the summons and complaint.

(Source: WOS 2000-04, April 16, 2000, Section II)

8.510 STORAGE OF PROPERTY

Following forcible eviction of the defendant and/or other occupants, the former occupant's personal property shall be stored by the Lessor or owner of the premises for at least thirty (30) days, either on the premises or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within thirty (30) days, the Lessor or owner is authorized to sell the property in order to recover these costs. The Lessor or owner shall provide the evicted occupants with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in this section shall be construed to prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do so in a manner satisfactory to the Lessor or owner.

(Source: WOS 2000-04, April 16, 2000, Section II)

Chapter 6. Lease Inheritance

8.601 SHORT TITLE AND PURPOSE

A. **Short Title**. This Statute may be cited as the "Lease Inheritance Act."

B. **Purpose**. The Little Traverse Bay Bands of Odawa Indians, coordinated through its Housing Department, intends to enter into residential leases with Tribal members under the provisions of 25 CFR part 162 using BIA form 5 - 5461 or such other format that complies with applicable Tribal and Federal law and regulation. This Statute governs the transfer of a Tribal member/lessee's interest by will or intestate succession.

(Source: WOS 2000-07, June 4, 2000, Section I)

8.602 INHERITANCE BY WRITTEN WILL

A. A Tribal member/lessee may by written will leave the remaining term of his/her residential lease to a Tribal member spouse, Tribal member children and/or Tribal member parent. Provided, the Tribal member spouse, Tribal member children and/or Tribal member parent who inherit the remaining term of the lease must actually have resided on the leased premises as their primary residence at the time of lessee's death and continue to reside on the leased premises as their primary residence or the lease will terminate.

B. A Tribal member/lessee may by written will leave a two year term of his/her residential lease to a non-member spouse, non-member children, and/or non-member parent. Provided, the non-member spouse, non-member children, and/or non-member parent who inherit a two year term of the lease must have actually resided on the leased premises as their primary residence at the time of lessee's death and continue to reside on the leased premises as their primary residence or the lease will terminate.

(Source: WOS 2000-07, June 4, 2000, Section II)

8.603 INTESTATE INHERITANCE

A. If a Tribal member/lessee dies intestate his/her Tribal member spouse, Tribal member children, and/or Tribal member parent who occupied the tract as a home at the time of decedent's death may remain in such home for the remainder of the term of the lease. Provided, the Tribal member spouse, Tribal member children and/or Tribal member parent who inherit the remaining term of the lease must actually continue to reside on the leased premises as their primary residence or the lease will terminate.

B. If a Tribal member/lessee dies intestate his/her non-member spouse, non-member children, and/or non-member parent who occupied the tract as a home at the time of decedent's death may remain in such home for a two year period after the death of lessee. Provided, the non-member spouse, non-member children, and/or non-member parent who inherit a two year term of the lease must actually continue to reside on the leased premises as their primary residence or the lease will terminate.

(Source: WOS 2000-07, June 4, 2000, Section III)

8.604 EARLY TERMINATION OF LEASES

If a Tribal member/lessee dies during the term of his/her lease, and the lease is not continued under Section II or III [WOTC 8.402;8.403] of this Statute, the lease shall terminate upon such death and all interest in the leased tract shall revert to the Tribe.

(Source: WOS 2000-07, June 4, 2000, Section IV)

8.605 DUTIES OF HOUSING DEPARTMENT AND TRIBAL COURT

A. The LTBB Housing Department shall develop forms consistent with this Statute which it shall provide to potential lessees.

B. Situations that arise that are not directly addressed in this Statute shall be resolved by the Tribal Court in accordance with the statutory and common law of LTBB.

(Source: WOS 2000-07, June 4, 2000, Section V)

8.606 EFFECTIVE DATE

This Statute takes effect immediately upon enactment.

(Source: WOS 2000-07, June 4, 2000, Section VI)

8.607 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, laws or ordinances of or governing 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.

(Source: WOS 2000-07, June 4, 2000, Section VII)

TITLE IX. CRIMINAL LAWS; LIQUOR CONTROL

Chapter 1. Criminal Code

9.101 JURISDICTION

A. Definition. The criminal jurisdiction of the Little Traverse Bay Bands of Odawa Indians (also referred to in this Code as “Bands” and/or "LTBB") is its power to prohibit certain conduct, as a matter of public policy, within its territory.

B. Power Implementation. That power is exercised by enacting this Code and by punishing people who violate its laws.

C. Territorial Extent. The criminal jurisdiction of the Little Traverse Bay Bands of

Odawa Indians shall extend to:

1. all lands and waters described in Article 1 Third and Article 1 Fourth of the Treaty of Detroit of July 31, 1855, 11 Stat. 621;

2. all trust land held now or in the future by the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians;

3. the activities of Band members when exercising treaty hunting and fishing rights wherever such activity occurs.

D. Persons Under LTBB Criminal Jurisdiction. The criminal jurisdiction of LTBB shall extend to:

1. all members of LTBB and

2. all other Indians present within the areas described in Section I (C)[WOTC 9.101(C)] of this Code.

3. The criminal jurisdiction of LTBB shall only extend to adults. However, upon motion of the tribal prosecutor, the judge may, in his/her discretion, try a minor as an adult.

(Source: WOS 1997014, June 22, 1997, Section I)

9.102 DEFINITIONS

For purposes of this Criminal Code:

A. "**Indian**" "Indian" means any person who is either:

1. a member of the Little Traverse Bay Bands of Odawa Indians;

2. a member of any federally-recognized Indian tribe, band, or group; or

3. any person of Indian blood who is generally considered to be an American Indian by the Little Traverse Bay Bands of Odawa Indians community.

B. "**Mental State: Malice**" A person acts "maliciously" or "with malice" when that person consciously formulates a plan to injure the person or property of another and takes steps to carry out such plan.

C. "**Mental State: Intent**"

1. A person acts "intentionally" or "with intent" with respect to conduct when it is that person's conscious desire to engage in certain conduct.

2. A person acts "intentionally" with respect to a result when it is that person's conscious desire that the conduct cause such result.

D. "**Mental State: Knowledge**" A person acts "knowingly" or "with knowledge" when that person is aware of his/her actions and the probable consequences of such actions.

E. "**Mental State: Wanton or Reckless**" A person acts "wantonly" or "recklessly" when that person is aware, or should be aware, that certain conduct will endanger the health, safety, or property of others but persists in engaging in the conduct despite the risks.

F. "**Mental State: Negligent**" A person acts "negligently" or "with neglect" when that person acts in a manner that endangers the safety or property of others without exercising the care that a reasonably prudent person would exercise under the same or similar circumstances.

G. "**Minor**" A minor is any person under eighteen (18) years of age.

H. **Adult**" For purposes of criminal jurisdiction an adult is any person eighteen (18) years of age or older.

I. "**Motor vehicle**" Motor vehicle means any car, truck, motorcycle, or other motor-operated vehicle.

(Source: WOS 1997014, June 22, 1997, Section II)

9.103 REQUIREMENTS FOR CONVICTION

A. **Culpability**. A person shall not be guilty of an offense unless that person acted intentionally, maliciously, knowingly, recklessly or negligently as the law requires with respect to each material element of the offense; provided that any material element of an offense that does not require a mental state may be established by proving that the person participated in the prohibited conduct regardless of his/her state of mind.

B. **Proof**. No person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt.

C. **Intoxication**.

1. Intoxication is not a defense unless it negates an element of the offense.

2. Self-induced intoxication cannot negate the element of recklessness.

D. **Statute of Limitations**. No person shall be prosecuted, tried or punished for any criminal offense unless the prosecution is initiated within one (1) year after both of the following conditions have been met:

1. discovery that an offense has been committed, and

2. discovery of the identity of the person who allegedly committed the offense.

E. **Multiple Counts**. When the conduct of a defendant establishes the commission of more than one offense, the defendant may be prosecuted for each such offense, unless:

1. one offense consists only of an attempt to commit the other;

2. inconsistent findings of fact are required to establish commission of the offenses; or

3. the offenses differ only in that one prohibits a designated kind of conduct generally, and the other prohibits a specific instance of such conduct.

(Source: WOS 1997014, June 22, 1997, Section III)

9.104 AFFIRMATIVE DEFENSES AND ALIBI

A. Duress. It is an affirmative defense that the defendant, engaged in the conduct charged to constitute an offense, was coerced against his/her will by the use of, or threatened use of, unlawful force against his/her person or the person of another. The coercion must be such that a person of reasonable firmness would be unable to resist.

B. Protection of Self, Property, or Other Person. The use of reasonable force toward another person is justified and is an affirmative defense, if and only if:

1. the force is directed toward one who is using unlawful force, and

2. the person using such force reasonably believes the use of force is necessary for his/her protection or that of a third person.

3. The use of reasonable force toward another person is justified and is an affirmative defense if used to prevent the unlawful entry into the dwelling of the person asserting the defense or into the dwelling of another or to prevent the unlawful carrying away of personal property.

C. Alibi. The defense of alibi, that the accused was somewhere else when the crime was committed, shall be treated procedurally as an affirmative defense.

D. Procedures for raising affirmative defense. The procedures for raising and pleading affirmative defenses shall be specified by Court Rule.

(Source: WOS 1997014, June 22, 1997, Section IV)

COMMENTS

An affirmative defense does not negate an element of the crime, but raises additional circumstances that provide justification for the actions, relieving the defendant of culpability, so that he/she in not held criminally liable. For instance, if a person raises a affirmative defense of duress when being accused of battery, that person does not deny that he/she intentionally struck another. But that person may state, for example, that he/she was coerced into doing so by threats of a third person.

Similarly, if a person raises the defense of protection of self, property, or other person, to a charge of battery, that person is not denying that he/she intentionally struck another. However, that person is stating that his/her actions were necessary to protect himself/herself or another, and therefore such actions are justified.

9.105 COUNSEL

A. Right to Counsel. Any person accused of an offense under this Code may represent himself before the Tribal Court, or may be represented, at his/her own expense, by a person duly licensed to practice before the Tribal Court.

B. Persons licensed to practice in LTBB Courts. An Attorney admitted to practice law in any state may be licensed to practice in LTBB Courts upon:

1. payment of an annual fee, as specified by Court Rule; provided that the fee may be waived if the attorney is providing pro bono services;

2. certification to the Tribal Court that he/she has read the Court Rules; and

3. taking of an oath to uphold the Constitution and laws of the Little Traverse

Bay Bands of Odawa Indians, maintaining due respect for the Tribal Court, and employing, in his/her conduct and duties, the highest degree of ethical and moral standards with which the legal profession is charged. The Tribal Court Rules may also set out a procedure for licensing non-attorney tribal members to practice before the Tribal Court.

(Source: WOS 1997014, June 22, 1997, Section V)

9.106 SENTENCING

A. Types of Sentences. The Court may suspend the imposition of sentence of a person who has been convicted of a crime, may order any appropriate rehabilitative treatment, may order the offender to be committed in lieu of sentence to a hospital or other institution for medical, psychiatric, or other rehabilitative treatment, or may sentence him/her as follows:

1. to perform community service work;

2. to pay restitution or provide services of restitution to the injured parties;

3. to be placed on probation;

4. to imprisonment for a definite period up to the term authorized only if imprisonment is allowed by pre-trial motion pursuant to VI (G) below; and/or

5. to fine and probation, or fine and imprisonment.

B. Delayed Sentencing. The judge may delay final sentencing for a period of up to one (1) year, and order community service and/or rehabilitative services during that time. At the end of the specified time, the judge may, if appropriate, dismiss the charges and expunge them from the Court Record.

C. Taking Jurisdiction Over Family or Household. When an offense has been committed against the family under Section VII (H) [WOTC 9.107(K)] of this Code, the

Court may take jurisdiction over the family or household, make child victims wards of the Court, and issue such orders as are necessary to ensure the safety and welfare of family members.

D. Probation. The Court shall have the discretion in any case except where prohibited by this Code or by tribal statute, to suspend all or any part of an offender's sentence and release the defendant on probation. The offender shall sign a probationary pledge, the conditions and limitations of which shall be clearly set forth by the Court.

E. Victim's Impact Statement. Prior to sentencing, the Court shall inform the victim(s) of their right to submit a written statement to the Court detailing the physical, material, and emotional damages that they suffered as a result of the offender's actions. The judge, in his/her discretion, may allow oral testimony to be taken regarding such damages, in addition to, or in lieu of, the written statement.

F. Sentencing Consideration. Before imposing sentence, the court shall take into consideration the offender's prior record, family circumstances, employment status, and any other circumstance which will aid in imposing a just and fair sentence, paying particular attention to the victim's impact statement described above. Restitution and community service work should generally be preferred over incarceration.

G. Right to Trial by Jury. Any person accused of an offense punishable by imprisonment shall have the right, upon request, to a trial by jury of not less than six persons.

(Source: WOS 1997014, June 22, 1997, Section VI; subsection G replaced by WOS 2005-02, March 6, 2005)

COMMENTS

The Tribal Court Judge has considerable discretion in fashioning an appropriate sentence for a person convicted of an offense. However, as was noted above, the maximum jail term and fine that a Tribal Judge may sentence a criminal to is one year or $5,000 or both.

Keeping someone in jail is very expensive, and thus drains tribal resources. Incarceration has not been proven to have significant rehabilitative value. Therefore, it is recommended that other forms of punishment, such as community service work, which will benefit the Tribe, or restitution to help the victim recover from his/her injuries, be preferred over incarceration. It is suggested that incarceration be utilized when the circumstances, such as violent propensity of the offender, make it the only viable alternative.

The ICRA gives the accused a right to a jury trial any time imprisonment is a possibility. Section VI (G) [WOTC 9.106(G)] allows the Court, prior to trial, to rule that imprisonment will be considered in the case. In all other cases, imprisonment will not be a potential punishment and thus the accused will not have the right to a jury trial.

9.107 OFFENSES

A. Contempt of Court and Perjury.

1. Contempt of Court.

a. Offense. Intentional and unjustifiable behavior by any person, which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding of the Court, or which obstructs, or interferes with the administration of justice by the Court, including disobedience or resistance to, or interference with, any lawful summons, subpoena, process, order, rule, term of probation, sentence, decree, or command of the Court, including failure to appear for a court date, shall constitute contempt of court.

b. Contempt committed in the presence of the Court. When contempt of court is committed in the presence of the Court it may be punished summarily by the Court. In such case, an order shall be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment.

c. Contempt committed out of the presence of the Court. When it appears to the Court that contempt has been committed out of the presence of the Court, the Court may issue a summons to the person so charged directing him/her to appear at a time and place designated for a hearing on the matter.

d. Sentence. A person found guilty of contempt of court may be sentenced to a jail term not to exceed thirty (30) days, or to a fine not to exceed one thousand dollars ($1,000.00), or to both. In addition, if a person is charged with contempt for jumping bail, the Court may order forfeiture of the person's bail.

2. Perjury.

a. Offense. A person who knowingly gives false testimony when under oath in a proceeding before the Tribal Court shall be guilty of perjury.

b. Sentence. A person convicted of perjury may be sentenced to a jail term not to exceed six (6) months or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

B. Scheming and Planning Offenses.

1. Solicitation.

a. Offense. A person commits solicitation if, with intent that another person engage in illegal conduct, he/she code, entreats, induces or otherwise endeavors to persuade such person to engage in illegal conduct.

b. Affirmative defense. It is an affirmative to a charge of solicitation that the defendant completely renounced his/her criminal intent before commission of the crime, and made a reasonable attempt to prevent the

solicited conduct.

c. **Sentence**. A person convicted of solicitation shall be subject to the same punishment as that specified in this Code for the completed offense.

2. **Conspiracy**.

a. **Offense**. A person commits conspiracy if that person agrees with one or more persons, with intent to promote or facilitate the commission of an offense, that at least one of them will engage in conduct constituting the offense, and one of the parties commits an overt act in furtherance of the agreement.

b. **Affirmative defense**. It is an affirmative defense to a charge of conspiracy that the defendant completely and voluntarily renounced his/her criminal intent before commission of the crime, and made a reasonable attempt to prevent the illegal action.

c. **Sentence**. A person convicted of conspiracy shall be subject to the same punishment as that specified in this Code for the completed offense.

3. **Attempt**.

a. **Offense**. A person commits an attempt, with respect to any of the enumerated offenses in this Code, if that person, acting with the intent to commit the offense, takes a substantial step toward the commission of the crime, and does not retract his/her action, but is foiled by circumstances beyond his/her control.

b. **Sentence**. A person convicted of an attempt shall be subject to the same punishment as that specified in this Code for the completed offense.

4. **Contributing to the delinquency of a minor**.

a. **Offense**. Any person who aids, abets, or encourages any minor to commit an act that would be an offense under this Code, if committed by an adult, shall be guilty of contributing to the delinquency of a minor.

b. **Sentence**. A person convicted of contributing to the delinquency of a minor may be sentenced to a jail term not to exceed sixty (60) days, or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

5. **Aiding and Abetting**.

a. **Offense**. A person commits an offense if he/she knowingly aids or abets another person in the commission or furtherance of a crime.

b. **Sentence**. A person found guilty of aiding and abetting will be subject to the same sentence as provided for the underlying crime.

COMMENTS

A person cannot be found guilty of aiding and abetting if the principal offender is found not guilty of the underlying crime.

C. **Offenses Against the Person**.

1. **Assault**.

a. **Offense**. A person commits assault if that person, by any unlawful act, threat, or menacing conduct, causes another person to reasonably believe that the other person is in immediate danger of physical harm.

b. **Sentence**. A person convicted of assault may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed one thousand ($1,000.00) or to both.

2. **Assault With a Weapon**.

a. **Offense**. A person commits assault with a weapon if that person, through the use, or threatened use, of a weapon, causes another person to reasonably believe that he/she is in immediate danger of physical harm.

b. **Sentence**. A person convicted of assault with a weapon may be sentenced to a jail term not to exceed one (1) year, or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

3. **Battery**.

a. **Offense**. A person who intentionally strikes or offensively touches the person of another commits the offense of battery.

b. **Sentence**. A person convicted of battery may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

4. **Sexual Assault**.

a. **Offense**. A person commits sexual assault if that person intentionally or knowingly engages in sexual penetration or sexual contact with any person without the consent of that person. Sexual contact means any fondling or manipulating of any part of the genitals, anus, or female breast.

b. **Sentence**. Any person found guilty of sexual assault may be sentenced to a jail term not to exceed one (1) year or to fine not to exceed five thousand dollars ($5,000.00) or to both.

5. **Sexual Assault of a Child**.

a. **Offense**. A person commits sexual assault of a child if he/she intentionally or knowingly engages in sexual penetration or sexual contact

with any person aged 16 years or younger, regardless of whether he/she has the consent of that person. Sexual contact means any fondling or manipulating of any part of the genitals, anus, or female breast.

b. **Sentence**. Any person found guilty of sexual assault of a child may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or both.

6. **Child Sexual Abuse**.

a. **Offense**. A person commits child sexual abuse if that person engages a child in sexual activity that the child does not developmentally understand, to which he or she cannot give informed consent, or that violates the social taboos of the community. Child Sexual Abuse includes but is not limited to; all forms of intercourse, oral genital contact, fondling, exhibitionism and child pornography.

b. **Sentence**. Any person found guilty of Child Sexual Abuse may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

7. **Unlawful Imprisonment**.

a. **Offense**. A person commits unlawful imprisonment if, without lawful authority, that person intentionally removes, detains , restrains, or confines the person of another without his/her consent.

b. **Sentence**. A person convicted of unlawful imprisonment may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

8. **Harassment**.

a. **Offense**. A person who verbally harasses another, including

obscene or threatening phone calls, with the intent of causing that person physical or emotional harm, shall be guilty of an offense.

b. **Sentence**. A person convicted of harassment may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

COMMENTS

The maximum allowable sentence is prescribed for unlawful imprisonment because very serious transgressions, such as kidnapping, would fall under this offense.

D. Weapons and Explosives.

1. Carrying a deadly weapon without a license.

a. **Offense**. A person who carries a deadly weapon without being licensed to do so by LTBB or by the State of Michigan commits an offense.

b. **Sentence**. A person convicted of unlawful carrying of a deadly weapon without a license may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both. The judge may also order that the weapon be impounded.

2. Unlawful use of a weapon.

a. **Offense**. A person commits unlawful use of a weapon if that person:

i. discharges a firearm in the proximity of a building or vehicle so as to knowingly or recklessly endanger a person or property;

ii. carries a firearm while intoxicated;

iii. handles or uses a firearm or other weapon so as to knowingly or recklessly endanger the safety of another; or

iv. carries a firearm or other weapon with unlawful intent.

b. **Sentence**. A person convicted of unlawful use of a weapon may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed two thousand dollars ($2,000.00) or to both. The judge may also order that the weapon be impounded.

3. **Dangerous use of explosives**.

a. **Offense**. A person commits dangerous use of explosives if, with intent to injure, intimidate or terrify another, or to damage another's property, that person maliciously explodes, attempts to explode or places any explosive anywhere within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians.

b. **Sentence**. A person convicted of dangerous use of explosives may be sentenced to a jail term not to exceed one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

c. In addition to, or in lieu of, the punishments set out above, the Court may order the offender to repair any property damaged by his/her actions or to pay the costs of such repairs to the injured party.

4. **Negligent use of explosives**.

a. **Offense**. A person commits negligent use of explosives if that person negligently explodes, attempts to explode or places any explosive in such a manner as to result in injury to another or to the property of another, or by such action that increases the probability of such injury.

b. **Sentence**. A person convicted of negligent use of explosives may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed three thousand dollars ($3,000.00) or to both.

c. In addition to, or in lieu of, the punishments set out above, the Court may order the offender to repair any property damaged by his/her actions or to pay the costs of such repairs to the injured party.

E. Theft and Related Crimes.

1. Theft of property.

a. **Offense**. A person commits theft of property if, without lawful authority, that person intentionally or knowingly:

i. controls property of another with the intent to permanently deprive the owner, or person in lawful possession, of such property;

ii. obtains property of another by means of any material misrepresentation with intent to permanently deprive the owner, or person in lawful possession, of such property, or

iii. comes into control of lost, mislaid or incorrectly delivered property under circumstances providing means of inquiry as to the true owner and appropriates such property to himself/herself without making reasonable efforts to notify the true owner.

b. **Sentence**. A person convicted of theft of property may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

c. **Return of property**. When a person is convicted of a theft, the

Court shall confiscate the stolen property and return it to its rightful owner. If the property has been lost or destroyed, the Court may require the offender to compensate the rightful owner for the value of the stolen property in addition to, or in lieu of, the sentence set out above.

2. Robbery.

a. Offense. A person commits robbery if that person threatens another with bodily harm, through the use of force or a weapon, in order to obtain property that is in the lawful custody of the person being threatened.

b. Sentence. A person convicted of robbery may be sentenced to a jail term not to exceed one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

3. Theft of services.

a. Offense. A person commits theft of services if, without lawful authority, that person obtains services which are available only for compensation with the intent of avoiding payment for such services.

b. Sentence. A person convicted of theft of services may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed two thousand dollars ($2,000.00) or to both.

c. Payment for services. The Court may require the offender to compensate the victim for the services wrongfully obtained in addition to, or in lieu of, the sentence set out above.

4. Unauthorized use of a vehicle.

a. Offense. A person commits an offense if that person intentionally or knowingly operates, or tampers with, another's automobile, motorcycle,

motorboat or other motor-operated vehicle, without the consent of the owner.

b. **Sentence**. A person convicted of unauthorized use of a vehicle may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

5. **Receiving stolen property**.

a. **Offense**. A person commits an offense if that person purchases, receives, conceals, or aids in concealing any property of another knowing, or having reason to know, that such property was obtained by theft or any other means declared by law to be unlawful.

b. **Sentence**. A person convicted of receiving stolen property may be sentenced to a jail term not to exceed one hundred eighty (180) days or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

F. **Burglary and Arson**.

1. **Burglary**.

a. **Offense**. A person commits burglary if that person enters into a building, boat, or motor vehicle belonging to another with the intent of committing an offense therein.

b. **Sentence**. A person convicted of burglary may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

2. **Arson**.

a. **Offense**. A person commits arson if that person knowingly sets fire to the building or property of another, or sets fire to his/her own

property with the intent of collecting insurance benefits, or with the intent of negatively impacting a family member or any person who has a rightful interest in the property.

b. **Sentence**. A person convicted of arson may be sentenced to a jail term not to exceed one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

G. Forgery and Related Crimes.

1. Forgery.

a. **Offense**. A person commits forgery if, with intent to defraud, that person:

i. falsely makes, completes, or alters a written instrument; or

ii. offers or presents a forged instrument knowing such instrument to be forged.

b. **Sentence**. A person who is convicted of forgery may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

2. Obtaining a signature by deception.

a. **Offense**. A person commits an offense if, with intent to defraud, that person obtains the signature of another person on a written instrument by knowingly misrepresenting or omitting any material fact relevant to the instrument or transaction.

b. **Sentence**. A person who is convicted of obtaining a signature by deception may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed four thousand dollars

($4,000.00) or to both.

3. Criminal impersonation.

a. Offense. A person commits criminal impersonation if that person:

i. assumes a false identity with the intent to defraud another; or

ii. pretends to be a representative of some person or organization with the intent to defraud.

a. Sentence. A person who is convicted of criminal impersonation may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

H. Bribery and Related Crimes.

1. Bribery of Officials.

a. Offense. A person commits the offense of bribery if that person:

i. offers, confers, or agrees to confer any benefit upon a tribal official, judge or employee with the intention of influencing such person's vote, opinion, judgment, exercise of discretion or other action in his/her official capacity; or

ii. as a tribal official, judge, or employee solicits, accepts, or agrees to accept any benefit upon an agreement or understanding that his/her official actions may be thereby influenced.

b. Sentence. A person convicted of bribery may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

2. Improper Influence of Official.

a. Offense. A person commits improper influence of an official if that person threatens harm to any tribal official, judge or employee with the intent of influencing such person's official actions.

b. Sentence. A person convicted of improper influence of an official may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

3. Abuse of office.

a. Offense. A person commits abuse of office if that person acts or purports to act in an official capacity; and

i. subjects another to arrest, detention, search or seizure without just and lawful cause; or

ii. maliciously denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity.

b. Sentence. A person convicted of abuse of office may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed three thousand dollars ($3,000.00) or to both.

I. Obstruction of Tribal Administration.

1. Resisting or obstructing an officer of the Little Traverse Bay Bands of Odawa Indians or any other law enforcement officer.

a. Offense. A person commits an offense if that person intentionally or knowingly obstructs, impairs or hinders:

i. any officer of the Little Traverse Bay Bands of Odawa Indians in the lawful exercise of his/her duties;

ii. any duly authorized person serving or attempting to serve or execute process or any rule or order of the courts of the Little Traverse Bay Bands of Odawa Indians;

iii. any judge or other court personnel of the Little Traverse Bay Bands of Odawa Indians, in the lawful exercise of his/her duties; or

iv. any other law enforcement official in the lawful exercise of his/her duties.

b. **Sentence**. A person convicted of obstruction of tribal administration may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

2. **Escape from lawful custody**.

a. **Offense**. A person commits the offense of escape from lawful custody if that person escapes or attempts to escape from lawful custody or confinement.

b. **Sentence**. A person convicted of escape from lawful custody may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

3. **Helping a person escape from lawful custody**.

a. **Offense**. A person commits an offense if that person helps or attempts to help a person escape from lawful custody or confinement.

b. **Sentence**. A person convicted of helping a person to escape from lawful custody may be sentenced to a jail term not to exceed one hundred eighty (180) days or a fine not to exceed five thousand dollars ($5,000.00) or to both.

4. **Tampering with a public record**.

a. **Offense**. A person commits tampering with a public record if that person intentionally or knowingly and without proper authority:

i. makes or completes a written instrument which purports to be a public record or true copy thereof or alters a written instrument which is a public record or true copy thereof;

ii. presents or uses a written instrument which is or purports to be a public record or a copy thereof, knowing that it has been falsely made, completed, or altered, with intent that it be taken as genuine;

iii. offers for recording, registration or filing in a tribal office or agency a written statement knowing that it has been falsely made, completed or altered or that it contains a false statement or information; or

iv. knowingly destroys, conceals, removes or otherwise impairs the availability of any public record.

b. Public records mean all official books, papers, written instruments or records created, issued, received or kept by any tribal office, branch or division.

c. **Sentence**. A person convicted of tampering with a public record may be sentenced to a jail term not to exceed two hundred seventy (270) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

5. Malicious criminal prosecution.

a. Offense. A person commits malicious criminal prosecution if that person maliciously causes or attempts to cause a criminal charge to be prosecuted against an innocent person, knowing such person to be innocent.

b. Sentence. A person convicted of malicious criminal prosecution may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

6. Interfering with an election.

a. Offense. A person commits an offense if that person, during the course of election held by the Little Traverse Bay Bands of Odawa Indians, knowingly:

i. attempts to influence the vote of any person or prevent a person from voting through the use or threatened use of force or violence; or

ii. attempts to cast more than one (1) vote in an election, or in any way interferes with the collection and counting of ballots.

b. Sentence. A person convicted of interfering with an election may be sentenced to a jail term not to exceed two hundred seventy (270) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

J. Criminal Damage to Property and Trespass.

1. Vandalism.

a. Offense. A person commits the offense of vandalism if that person

intentionally or recklessly:

i. defaces or damages the personal or real property of another person; or

ii. defaces or damages the real property of the Little Traverse Bay Bands of Odawa Indians.

b. **Sentence**. A person convicted of vandalism may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

c. **Restitution**. The judge may, in addition to, or-in lieu of, the punishments set out above, order the offender to pay the owner the repair or replacement costs of the damaged property or to perform work for the owner equal to the value of the damaged property.

2. **Littering**.

a. **Offense**. A person commits the offense of littering if that person throws, places, drops or disposes of any litter in a place which is not a lawful waste disposal site or receptacle for the disposal of litter.

b. **Sentence**. A person convicted of littering may be sentenced to a jail term not to exceed thirty (30) days or a fine not to exceed five hundred dollars ($500.00) or to both.

c. The judge may, in addition to, or in lieu of, the punishments set out above, order the offender to pick up litter within tribal land, as community service, for a time not to exceed eighty (80) hours.

3. **Dumping of hazardous material**.

a. **Offense**. A person commits an offense if that person throws,

places, drops or disposes of any hazardous material in a place which is not a lawful disposal site for such materials.

b. **Sentence**. A person convicted of dumping hazardous materials may be sentenced to a jail term not to exceed one (1) year or a fine not to exceed five thousand dollars ($5,000.00) or to both. In addition, the Court may order the person to remove the materials that have been dumped or to pay for the cost of such removal.

4. **Trespass**.

a. **Offense**. A person commits the offense of trespass if that person knowingly enters the property or dwelling of another with reason to know that the owner would not permit him/her to do so, or refuses to depart when requested to do so, or enters upon Tribal properties and refuses to depart when requested to do so by an officer or employee of the Little Traverse Bay Bands of Odawa Indians.

b. **Sentence**. A person convicted of trespass may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed two thousand dollars ($2,000.00) or to both.

K. **Offenses Against the Family**.

1. **Court's jurisdiction expanded**.

The court, in its discretion, may order the victim(s) or others touched by any of the offenses enumerated in this Section to undergo appropriate treatments or participate in appropriate rehabilitative program(s).

a. The Court, to protect children who are victims of crimes against the family or who are affected by crimes against the family, may:

i. find probable cause to believe that the children are minors-

in-need-of-care and begin appropriate proceedings by entering a protective warrant pursuant to the Children's Code; or

ii. schedule an adjudicatory hearing, pursuant to the Children's Code, to determine whether the children are minors-in-need-of-care.

b. In cases of abuse, the Tribal Court shall have the option of ordering the abuser(s) to vacate the residence and allowing the children to remain in the residence, under the supervision of the Court or its designee.

2. Abandonment of a child.

a. Offense. A parent, guardian or other person having legal custody of a child commits abandonment of a child if he/she intentionally or knowingly abandons a child under seventeen (17) years of age.

b. Sentence. A person convicted of abandonment of child may be sentenced to a jail term not to exceed one hundred eighty (180) days or to pay a fine not to exceed three thousand dollars ($3,000.00) or to both.

c. The judge may order the offender to undergo an appropriate rehabilitative program, in lieu of, or in addition to, the sentence set out above, if it appears from the totality of the circumstances that rehabilitative services could help the offender become a responsible parent.

3. Failure to support a dependent.

a. Offense. A person commits an offense if that person knowingly and persistently fails to provide food, shelter, clothing, medical attention, financial support or other necessary care which he/she is capable of providing to his/her child or other dependent.

b. **Sentence**. A person convicted of failure to support a dependent may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

c. The judge may order the offender to undergo an appropriate rehabilitative program, in lieu of or in addition to, the sentence set out above, if it appears from the totality of the circumstances that rehabilitative services could help the offender become a responsible parent.

4. **Sexual conduct with a foster child or stepchild**.

a. **Offense**. A person commits an offense if that person knowingly engages in sexual penetration or contact with his/her foster child or stepchild who is under seventeen (17) years of age. Sexual contact means any fondling or manipulating of any part of the genitals, anus, or female breast.

b. **Sentence**. A person convicted of sexual conduct with a foster child or stepchild may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

5. **Incest**.

a. **Offense**. A person commits incest if that person knowingly engages in sexual penetration or contact with another who is a member of such person's immediate family. Sexual contact means any fondling or manipulating of any part of the genitals, anus or female breast. For purposes of this Section immediate family means mother, father, son, daughter, brother or sister.

b. **Sentence**. A person who commits incest may be sentenced to a jail term not to exceed one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

6. Child abuse.

a. Offense. A person commits the offense of child abuse if that person intentionally, knowingly or recklessly causes physical injury to a child in his/her care or custody.

b. Sentence. A person who commits child abuse may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

7. Spouse abuse.

a. Offense. A person commits an offense if that person intentionally, knowingly or recklessly causes physical injury to his/her spouse.

b. The term spouse for this offense shall include:

i. a husband or wife;

ii. either member of a couple living together; and

iii. either parent of a child.

c. Sentence. A person who commits spouse abuse may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

COMMENTS

In keeping with Section III (E) [WOTC 9.103(E)]a person should not be prosecuted for both an offense under this Section and for sexual assault, VII (C) (4) [WOTC 9.107(C)(4)], because sexual conduct with a foster child or stepchild and incest are specific types of sexual assaults.

Also, a person should not be prosecuted for both child abuse and battery, or spouse abuse and battery, because these are specific types of battery. A person who abuses a child, not in his/her care or custody, should be prosecuted for battery.

L. Riot and Related Offenses.

1. Riot.

a. Offense. A person commits riot if, with five or more other persons acting together, that person intentionally, knowingly or recklessly uses force or violence, or threatens to use force or violence, which disturbs the public peace.

b. Sentence. A person convicted of riot may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed four thousand dollars ($4,000.00) or to both.

2. Disorderly conduct.

a. Offense. A person commits disorderly conduct if that person intentionally, knowingly or recklessly:

i. engages in fighting, or provokes a fight;

ii. makes any protracted commotion which prevents the transaction of the business of a lawful meeting, gathering or procession;

iii. makes loud and unreasonable noise; or

iv. engages in the consumption of alcohol out of doors with two or more persons without a tribal permit.

b. **Sentence**. A person convicted of disorderly conduct may be sentenced to a jail term not to sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

3. **Obstructing a highway or other public thoroughfare**.

a. **Offense**. A person commits an offense if that person intentionally, knowingly or recklessly interferes, having no legal privilege to do so, with the use of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard.

b. **Sentence**. A person who is convicted of obstructing a highway or other public thoroughfare may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

4. **Creating false alarm**.

a. **Offense**. A person commits an offense if that person reports a bombing, f ire, crime or other emergency knowing such report to be false or baseless and knowing that:

i. it will cause action by an official or voluntary agency organized to deal with emergencies;

ii. it will place a person in fear or imminent serious bodily injury; or

iii. it will prevent or interrupt the occupation of any building, room, place of assembly or other public place.

b. **Sentence**. A person convicted of creating false alarm may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed two thousand dollars ($2,000.00) or to both.

5. Public intoxication.

a. Offense. A person commits public intoxication if that person appears in public in an inebriated state to the degree that he/she is unable to care for his/her own safety or is creating a public nuisance.

b. Sentence. A person convicted of public intoxication may be sentenced to a jail term not to exceed thirty (30) days or to a fine not to exceed five hundred dollars ($500.00) or to both.

c. The judge may, in addition to or in lieu of, the punishments set out above, order the offender to participate in an alcohol treatment program.

6. Curfew.

a. Offense. All minors must adhere to a curfew of 11:00 p.m. It shall be unlawful for any minor to appear in public after curfew. Furthermore, it shall be unlawful for anyone to allow a minor to violate the tribal curfew.

b. Sentence. A person who is found guilty of a curfew violation may be sentenced to a jail term not to exceed thirty (30) days or to pay a fine not to exceed five hundred dollars ($500.00) or to both.

7. Truancy.

a. Offense. It shall be unlawful for any minor under the age of sixteen (16) to be absent from school without proper permission or excuse. Furthermore, it shall be unlawful for any person to allow any minor under the age of sixteen (16) to be absent from school without proper permission or excuse.

b. Sentence. Any person found guilty of truancy may be sentenced

in the Court's discretion to ensure regular school attendance.

M. Traffic Offenses.

1. Reckless driving.

a. Offense. A person commits reckless driving if that person operates a motor vehicle in a manner that he/she knows or should know, endangers the safety or property of others, including, but not limited to, driving on the wrong side of the street, weaving, or driving at a speed in excess of that which is prudent under the conditions.

b. Sentence. A person convicted of reckless driving may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed two thousand dollars ($2,000.00) or to both.

2. Driving while under the influence of intoxicating liquor or other drug.

a. Offense. A person commits an offense if that person operates a motor vehicle within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians while under the influence of alcohol or other drugs.

b. Sentence. A person convicted of driving while under the influence of intoxicating liquor or other drugs may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars ($5,000.00) or to both.

c. Order for Treatment. The judge may, in addition to, or in lieu of the punishments set out above, order the offender to participate in an alcohol or substance abuse treatment program.

3. Driving with an open alcohol container.

a. **Offense**. A person commits an offense if that person operates a motor vehicle while an open container containing an alcoholic beverage is present anywhere in the passenger compartment of the vehicle.

b. **Sentence**. A person convicted of driving with an open alcohol container may be sentenced to a jail term not to exceed thirty (30) days or to a fine not to exceed one thousand dollars ($1000.00) or to both.

4. **Driving with a loaded firearm**.

a. **Offense**. A person commits an offense if that person operates a motor vehicle with a loaded firearm present in the vehicle.

b. **Sentence**. A person convicted of driving with a loaded firearm may be sentenced to a jail term not to exceed ninety (90) days or to a fine not to exceed two thousand dollars ($2,000.00) or to both.

5. **Operation of motor vehicle without proof of insurance**.

a. **Offense**. A person commits an offense if that person operates a motor vehicle without proof of insurance on his/her person or present in the vehicle.

b. **Sentence**. A person convicted of operation of a motor vehicle without proof of insurance may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00). The uninsured vehicle may be impounded by LTBB until it is properly insured.

N. **Criminal Homicide**.

1. **Offense**. A person commits the offense of criminal homicide if:

a. that person intentionally causes the death of another person;

b. with intent to cause bodily injury to a person, that person causes the death of the intended victim or any other person;

c. that person voluntarily commits or participates in: the commission of, or attempts to commit, arson, robbery, burglary, kidnaping, assault, or sexual assault, and in the course of, or in furtherance of the crime that is being committed or attempted, or during flight from the scene of the crime, the death of a person is caused;

d. that person recklessly or by gross negligence causes the death of another person, including the reckless operation of a motor vehicle; or

e. that person, through the negligent operation of a motor vehicle, causes the death of another person.

2. **Sentence**. A person convicted of criminal homicide may be sentenced to a jail term not to exceed one (1) year or to a fine not to exceed five thousand dollars ($5,000.00), or to both, or to the maximum penalty allowable under federal law.

COMMENTS

An discussed above, under the Indian Civil Rights Act, a tribal court may only sentence an offender to a maximum of one (1) year in jail and/or a fine of five thousand dollars ($5,000.00). Every effort should be made to obtain a federal prosecution in cases of criminal homicide, in addition to the tribal court prosecution. An offender can be prosecuted in both tribal and federal court without violating the United States Constitutional prohibition against double jeopardy because the tribal and federal governments are separate sovereign entities. United States v Wheeler, 435 US 313 (1978).

O. **Alcohol-Related Offenses**.

1. **Possession or consumption of alcohol by a person under 21 years of age**.

a. **Offense**. A person commits an offense if that person is under twenty-one (21) years of age and knowingly possesses or consumes any alcoholic beverage.

b. **Sentence**. A person convicted of possession or consumption of alcohol by a person under 21 years of age may be compelled to perform an amount of community service work and/or undergo rehabilitative treatment as deemed appropriate by the tribal judge.

c. In addition, the Court may sentence the person who commits this offense to a jail term not to exceed thirty (30) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

2. **Furnishing alcohol to a person under 21 years of age**.

a. **Offense**. A person commits an offense if that person knowingly furnishes, purchases, provides or in any way procures, any alcoholic beverage for the possession or consumption by a person under twenty-one (21) years of age.

b. **Sentence**. A person convicted of furnishing alcohol to a person under twenty-one (21) years of age may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

3. **Allowing a person under 21 years of age to consume alcohol**.

a. **Offense**. A person commits an offense if that person knowingly allows a person under twenty-one (21) years of age to consume alcohol in his/her residence, vehicle, or presence.

b. **Sentence**. A person convicted of allowing a person under twenty-one (21) years of age to consume alcohol may be sentenced to a jail term not to exceed sixty (60) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

P. **Controlled Substances**.

1. **Possession, Use, Sale, Manufacture and/or Distribution**.

a. **Offense**. It shall be unlawful for any person to possess, use, sell, manufacture and/or distribute any controlled substance defined and/or described in the Uniform Controlled Substances Act, 21 U.S.C. Section 812, as updated, without prior authorization.

b. **Sentence**. Any person convicted of this offense may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

2. **Youth and tobacco**.

a. **Offense**. It shall be unlawful for any minor to possess, use or purchase any tobacco or tobacco products. Furthermore, it shall be unlawful for any person to allow the possession, use or sale of tobacco or tobacco products to any minor.

b. **Sentence**. Any person found guilty of this offense may be sentenced to a jail term not to exceed ninety (90) days or to pay a fine not to exceed two thousand dollars ($2,000.00) or to both.

c. **Affirmative Defense**. It shall be an affirmative defense to this offense when the alleged violation occurred in the furtherance of a recognized tribal and/or religious purpose.

Q. **Animal Control**.

1. Failure to have a dog properly licensed.

a. Offense. Any person who owns a dog must have the dog properly licensed under the County Animal Control Enforcement Ordinance or by the Little Traverse Bay Bands of Odawa Indians if LTBB sets up its own animal licensing system. A person commits an offense if that person fails to have his/her dog so licensed.

b. Sentence. A person who commits an offense may be sentenced to a jail term not to exceed thirty (30) days or to a fine not to exceed five hundred dollars ($500.00) or to both.

2. Allowing a dog to be a public nuisance.

a. Offense. Any persons who owns, possesses or maintains a dog is responsible for such dog. A person, whose dog barks outside to an extent that a person of reasonable sensibility is disturbed by such barking, or whose dog is vicious or has propensity to be vicious, commits its an offense.

b. Sentence. Any person convicted of allowing a dog to be a public nuisance may be sentenced to a jail term not to exceed thirty (30) days or to pay a fine not to exceed five hundred dollars ($500.00) or to both.

c. In addition, the Court may order the destruction of the dog if necessary to protect the public.

3. Allowing a dog to run at large.

a. Offense. It shall be unlawful for any dog to run at large; provided that a dog engaged in hunting need not be leashed when under reasonable control of its owner, or possessor. The owner of a dog running at large commits an offense.

b. **Sentence**. Any person convicted of allowing a dog to run at large may be sentenced to a jail term not to exceed thirty (30) days or to pay a fine not to exceed one thousand dollars ($1,000.00) or to both.

4. **Animal abuse**.

a. **Offense**. A person commits an offense if that person intentionally beats, cruelly treats, torments, overloads or otherwise abuses any dog, livestock or poultry, or instigated any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

b. **Sentence**. A person convicted of animal abuse may be sentenced to a jail term not to exceed thirty (30) days or to a fine not to exceed one thousand dollars ($1,000.00) or to both.

R. **Violation of Tribal Ordinance**.

1. **Offense**. In addition to the offenses specified above, a person commits an offense under this Code if that person violates any criminal statute or ordinance duly enacted by the Tribal Council.

2. **Sentence**. A person convicted of violation of a tribal ordinance may be subject to whatever punishment is specified in the ordinance that was violated.

S. **Habitual Offender**.

1. **Offense**. Any person who is convicted under tribal law, who has previous convictions under tribal law, may be charged as a habitual offender.

2. **Sentence**. A person convicted of being an habitual offender may be sentenced as follows:

a. **2nd offense**. One and one half (1 ½) times the maximum for the

underlying offense not to exceed a jail term of one year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

b. **3rd offense**. Two (2) times the maximum for the underlying offense not to exceed a jail term of one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

c. **4th or more offense**. Not to exceed a jail term of one (1) year or to pay a fine not to exceed five thousand dollars ($5,000.00) or to both.

(Source: WOS 1997014, June 22, 1997, Section VII)

T. Crimes Against Officers and Natural Resources

1. Assault of an Officer.

a) Offense. A person commits assault of an Officer if that person, by any intentional act, threat, or menacing conduct, causes the Officer to reasonably believe that he/she is in immediate danger of physical harm.

b) Sentence. A person convicted of assault of an Officer may be sentenced to a jail term not to one (1) year, or a fine not to exceed five thousand dollars ($5,000.00) or both.

2. Assault of an Officer With a Weapon.

a) Offense. A person commits assault of an Officer with a weapon if that person, through the intentional or negligent use, or threatened use, of a weapon, causes the Officer to reasonably believe that he/she is in immediate danger of physical harm.

b) Sentence. A person convicted of assault of an Officer with a weapon may be sentenced to a jail term not to exceed one (1) year, or a fine not to exceed five thousand dollars ($5,000.00) or both.

3. Battery of An Officer

a) Offense. A person who intentionally strikes or physically restrains or physically impedes an Officer commits the offense of battery of an Officer.

b) Sentence. A person convicted of battery of an Officer may be sentenced to a jail term not to exceed one (1) year or a fine not to exceed five thousand dollars ($5,000.00) or both.

4. Eluding an Officer

a) Offense. A person who knowingly flees or attempts to evade an Officer after a visible or audible command to stop commits the offense of eluding an Officer. A visible or audible signal under this section may include the use of hands, voice, emergency lights or sirens.

b) Sentence. A person convicted of Eluding an Officer may be sentenced to a jail term not to exceed six (6) months or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both.

5. Larceny of Natural Resources.

a) Offense. A person who, without permission of the owner, knowingly molests, disturbs or appropriates any wild plant, wild fish, wild animal or carcass thereof, which has been lawfully reduced to possession by or otherwise owned by another commits the offense of larceny of natural resources.

b) Sentence. A person convicted of larceny of natural resources may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed one thousand dollars ($1,000.00) or both.

6. Violation of a natural resource license or permit revocation or suspension order.

a) Offense. A person commits an offense if he/she knowingly violates any natural resources license or permit suspension or revocation order.

b) Sentence. A person convicted of violation of a natural resource license or permit revocation or suspension order may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed one thousand dollars ($1,000.00) or both.

7. Impersonating an Officer.

a) Offense. A person who is not an Officer who intentionally claims to be such an Officer through the use of false claims or disguise commits the offense of impersonating an Officer.

b) Sentence. A person convicted of impersonating an Officer may be sentenced to a jail term not to exceed six (6) months or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both.

8. Failure to report natural resource harvesting injury or death.

a) A person who witnesses or encounters any life threatening injury or death of another resulting from the actions of any person taking or attempting to take any wildlife, game, fish or furbearer, and who fails to make a reasonable attempt to report the injury or death to Tribal or other law enforcement or emergency response officials commits the offense of failing to report natural resource harvesting injury or death.

b) Sentence. A person convicted of failing to report natural resource harvesting injury or death may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both.

9. Damaging or stealing gear.

a) Offense. A person who intentionally damages or steals any nets, stands, traps or gear belonging to another hunter, fisher or trapper commits the offense of damaging or stealing gear.

b) Sentence. A person convicted of damaging or stealing gear may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both.

10. Conspiracy to violate natural resource regulation or law.

a) Offense. A person commits conspiracy to violate natural resource regulation or law if that person agrees with one or more persons, with intent to promote or facilitate the commission of a violation, that at least one of them will engage in conduct constituting the violation, and one of the parties commits an overt act in furtherance of the agreement.

b) Sentence. A person convicted of conspiracy to violate natural resource regulation of law may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both, in addition to any punishment provided for the specific violation if he/she actually carried it out.

11. Taking or harming threatened or endangered species.

a) Offense. A person who intentionally harms or harvests a threatened or endangered plant or animal species commits the offense of taking or harming a threatened or endangered species.

b) Sentence. A person convicted of taking or harming a threatened or endangered species may be sentenced to a jail term not to exceed six (6) months or a fine not to exceed five thousand dollars ($5,000.00) or both.

12. Falsification of identification to procure a Tribal natural resource license.

a) Offense. A person who intentionally presents false identification for purposes of obtaining a natural resource license or permit that the person would not otherwise be entitled to commit the offense of falsification of identification to procure a Tribal natural resource license.

b) Sentence. A person convicted of falsification of identification to procure a Tribal natural resource license may be sentenced to a jail term not to exceed ninety (90) days or a fine not to exceed two thousand five hundred dollars ($2,500.00) or both.

(WOS 2008-12, October 5, 2008, Section XII)

9.108 EFFECTIVE DATE

This statute shall remain in full force and effect until superceded by subsequent legislative action of the Tribal Council.

(Source: WOS 1998014, October 8, 1998)

Chapter 2. Sex Offense Statute

9.201 SHORT TITLE

This Statute may be cited as the "Sex Offense Statute."

(WOS 2009-009, March 8, 2009, Section I)

9.202 PURPOSE

The purposes of this Statute is for the Little Traverse Bay Bands of Odawa Indians to prohibit certain conduct, as a matter of public policy, within its territory and establishes this law as criminal conduct for sexual offenses.

(WOS 2009-009, March 8, 2009, Section II)

9.203 DEFINITIONS

A. "Breast" means any portion of the female breast below the top of the areola;

B. "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

C. "Capture" with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

D. "Coercion" means:

1. threats of serious harm to or physical restraint against any person;

2. any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

3. the abuse or threatened abuse of law or the legal process.

E. "Commercial sex" means any sex act, on account of which anything of value is given to or received by any person;

F. "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact;

G. "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped;

H. "Foreign Government" means the Untied States, a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States;

I. "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage;

J. "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse or sexual contact whether that condition is produced by illness, defect, the influence of a substance or from some other cause;

K. "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

L. "Recklessly" means with respect to a result or to a circumstance described by a statute defining an offense that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk;

M. "Sex" means acts of masturbation, sexual intercourse, or physical contact with a person's genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal;

N. "Sexual act" means:

1. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

4. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

O. "Sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

P. "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

Q. "Significant Relationship" means a situation in which the perpetrator is:

1. A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

2. A person who in the course of his or her employment supervises minors.

R. "Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians" means "areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a);

S. "Tribal Court" means the Little Traverse Bay Bands of Odawa Indians Tribal Court;

T. "Tribe" means the Little Traverse Bay Bands of Odawa Indians;

U. "Tribal Community Standards" means the standards of conduct as defined by the Tribal Council;

V. "Under circumstances in which that individual has a reasonable expectation of privacy" means:

1. circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

2. circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

(WOS 2009-009, March 8, 2009, Section III)

9.204 JURISDICTION

The Tribe's jurisdiction shall extend to Citizens or members of Federally Recognized Tribes where the offense occurred on Tribal lands.

(WOS 2009-009, March 8, 2009, Section IV)

9.205 JUVENILE TRANSFER TO THE ADULT DIVISION OF TRIBAL COURT

A. If the juvenile is at least sixteen (16) years of age at the time of the offense, the Prosecutor shall have the option of filing the action as a juvenile offender proceeding or as an adult criminal matter. If the juvenile is between the ages of fourteen (14) and sixteen (16) and is alleged to have committed an offense, the Prosecutor may file a petition requesting the Court to transfer the juvenile to the Adult Division of the Court.

B. No juvenile under the age of fourteen (14) years of age shall be charged as an adult for violations under this Statute.

(WOS 2009-009, March 8, 2009, Section V)

9.206 VICTIM'S PAST BEHAVIOR

A. In order to convict a person of any offense defined in this Statute it shall not be necessary that the testimony of the alleged victim be corroborated.

B. Evidence of the victim's past sexual behavior including but not limited to: the victim's marital history, divorce history, or general reputation for promiscuity, non-chastity, or sexual mores contrary to tribal community standards is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as follows:

1. The perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

2. The Tribal Court shall hold a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

3. Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the Prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing concerning such evidence.

(WOS 2009-009, March 8, 2009, Section VI)

9.207 DEFENSES TO PROSECUTION

A. In any prosecution in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant

reasonably believed that the victim was not mentally incapacitated and/or physically helpless.

B. In any prosecution in which the offense or degree of the offense depends on the victim's age, it is not a defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be; provided, that it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be the age identified based upon declarations as to age by the alleged victim.

(WOS 2009-009, March 8, 2009, Section VII)

9.208 LEVELS OF RISK TO THE COMMUNITY

Sex offenders present various "Levels of Risk" to the tribal community. If the court of jurisdiction has assigned a level or tier to the conviction, the person shall follow such classification. If no level or tier has been assigned to the conviction the department shall assign such level or tier based on the following classification:

Risk Assessment	Level of Concern
Tier I	Low risk to reoffend within the community at large
Tier III	High risk to reoffend within the community at large

(WOS 2009-009, March 8, 2009, Section VIII)

9.209 LIMITATION ON FILING OF COMPLAINTS

A. No person shall be prosecuted, tried or punished for any offense unless the prosecution is

initiated within the set time periods with the following conditions have been met:

1. discovery that an offense has been committed, and

2. discovery of the identity of the person who allegedly committed the offense.

B. Set time periods:

1. Tier I: One year

2. Tier III: Five years

C. The set time period begins when the victim, if a child, turns eighteen years of age.

D. Time spent outside of the Tribal jurisdiction shall not be counted toward the statute of limitations to begin prosecution.

(WOS 2009-009, March 8, 2009, Section IX)

9.210 OFFENSES

A. Rape Tier I:

1. A person is guilty of the offense of Rape Tier I when the person engages in sexual intercourse with another person who is not married to the perpetrator:

a. By forcible compulsion; or coercion;

b. Where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or

c. Where there is threat of substantial unlawful harm to property rights of the

victim.

2. Penalty. For the offense of Rape Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-half of such fine may be reduced by the performance of community service.

B. Rape Tier III:

1. A person is guilty of the offense of Rape Tier III when such person engages in a sexual act with another person by forcible compulsion where the perpetrator or an accessory:

a. Uses coercion or threatens to use a deadly weapon or what appears to be a deadly weapon; or

b. When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

c. Kidnaps the victim;

d. Inflicts serious physical injury; or

e. Unlawfully enters into the building or vehicle where the victim is situated.

2. Penalty. For the offense of Rape Tier III, the Tribal Court shall impose a penalty of one (1) year jail time and $5,000 fine.

C. Rape of a Child Tier I

1. A person is guilty of the offense of Rape of a Child Tier II when the person engages in a sexual act with another who:

a. is at least twelve (12) years old but less than fourteen (14) years old and the perpetrator is at least thirty-six (36) months older than the victim;

b. is at least fourteen (14) years old but less than sixteen (16) years old and not married to the perpetrator and the perpetrator is at least forty-eight (48) months older than the victim.

2. Penalty. For the offense of Rape of a Child Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine less than $5,000 fine, of which one-half of such fine may be reduced by the performance of community service.

D. Rape of a Child Tier III

1. A person is guilty of the offense of Rape of a Child Tier III when the person engages in a sexual act with a person who is less than twelve (12) years old and the perpetrator is at least twenty-four (24) months older than the victim.

2. Penalty. For the offense of Rape of a Child Tier III, the Tribal Court shall impose a minimum penalty of one (1) year jail time and $5,000 fine.

E. Child Molestation Tier I

1. A person is guilty of the offense of Child Molestation Tier I when the person has, or knowingly causes:

a. another person under the age of eighteen (18) to have, sexual contact with another who is at least twelve (12) years old but less than fourteen (14) years old and the perpetrator is at least thirty-six (36) months older than the victim.

b. causes another person under the age of eighteen (18) to have, sexual contact with another who is at least fourteen (14) years old but less than sixteen (16) years old and not married to the perpetrator and the perpetrator is at least forty-eight (48) months older than the victim.

2. Penalty. For the offense of Child Molestation Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-

half of such fine may be reduced by the performance of community service.

F. Child Molestation Tier III

1. A person is guilty of the offense of Child Molestation Tier III when the person has, or knowingly causes another person under the age of eighteen (18) to have sexual contact with another who is less than twelve years old (12) and the perpetrator is at least thirty-six (36) months older than the victim.

2. Penalty. For the offense of Child Molestation Tier III, the Tribal Court shall impose a penalty of one (1) year and $5,000 fine.

G. Sexual Misconduct with a Child Tier I

1. A person is guilty of the offense of Sexual Misconduct with a Child Tier I when the person has, or knowingly causes another person under the age of eighteen (18) to have, sexual contact with another person who is at least sixteen (16) years old but less than eighteen (18) years old and not married to the perpetrator, if the perpetrator is at least sixty (60) months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age of eighteen (18) to engage in sexual contact with the victim.

2. Penalty. For the offense of Sexual Misconduct with a Child Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-half of such fine may be reduced by the performance of community service.

H. Sexual Misconduct with a Child Tier III

1. A person is guilty of the offense of Sexual Misconduct with a Child Tier III when the person has, or knowingly causes another person under the age of eighteen (18) to have, sexual intercourse with another person who is at least sixteen (16) years old but less than eighteen (18) years old and not married to the perpetrator, if the perpetrator is at least sixty (60) months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age

of eighteen (18) to engage in sexual intercourse with the victim.

2. Penalty. For the offense of Sexual Misconduct with a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a fine of $5,000.

I. Indecent Exposure Tier I

1. A person is guilty of the offense of Indecent Exposure Tier I if he or she knowingly or recklessly exposes his or her genitals or anus or she exposes her breast or breasts and another person is present or is reckless about whether such other person may be present and would be offended or alarmed by the act. Unless it is under circumstances in which that individual has a reasonable expectation of privacy.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. Penalty. For the offense of Indecent Exposure Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-half of such fine may be reduced by the performance of community service

J. Indecent Exposure to a Child Tier III

1. A person is guilty of the offense of Indecent Exposure Tier III if he or she knowingly and purposefully exposes his or her genitals or anus or she exposes her breast or breasts and another person under the age of fifteen (15 Unless it is under circumstances in which that individual has a reasonable expectation of privacy.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. Penalty. For the offense of Indecent Exposure to a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

K. Public Sexual Indecency Tier I

1. A person commits the offense of Public Sexual Indecency Tier I by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

a. An act of sexual contact.

b. An act of oral sexual contact.

c. An act of sexual intercourse.

d. An act involving contact between the person's mouth, vulva or genitals and the anus or genitals of an animal.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. Penalty. For the offense of Sexual Indecency Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-half of such fine may be reduced by the performance of community service

L. Public Sexual Indecency to a Child Tier III

1. A person commits the offense of Public Sexual Indecency by intentionally or knowingly engaging in any of the following acts, if another person is present is under the age of fifteen (15), and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

a. An act of sexual contact.

b. An act of oral sexual contact.

c. An act of sexual intercourse.

d. An act involving contact between the person's mouth, vulva or genitals and the anus or genitals of an animal.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. Penalty. For the offense of Sexual Indecency to a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a fine of $5,000.

M. Prostitution Tier I

1. A person is guilty of the offense of Prostitution Tier I when the person offers or agrees to engage in commercial sex, sexual intercourse or sexual contact with another person for money or other consideration, or procures another person to offer or agree to engage in sexual intercourse or sexual contact with another person for money or other consideration.

2. Penalty. For the offense of Prostitution Tier I, the Tribal Court shall impose a penalty of less than one (1) year and a fine of less than $5,000 of which one-half of such fine may be reduced by the performance of community service

N. Child Prostitution Tier III

1. A person is guilty of the offense of Child Prostitution Tier III when the person shall offer or agree to engage in commercial sex, sexual intercourse or sexual contact with another person who is less than eighteen (18) years of age for money or other consideration, or the person who acts as an intermediary for a person who is less than eighteen (18) years of age to engage in commercial sex, sexual intercourse or sexual contact.

2. Penalty. For the offense of Child Prostitution Tier III, the Tribal Court shall impose a penalty of one (1) year and a fine of $5,000.

O. Sexual Exposure of a Child Tier III

1. A person is guilty of the offense of Sexual Exposure of a Child Tier III when a person knowingly:

a. exposes his or her genitals to a child less than fifteen (15) years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

b. Knowingly exposes his or her genitals to a child less than fifteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

c. Knowingly coerces or induces a child less than fifteen (15) years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. Penalty. For the offense of Sexual Exposure of a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

P. Sexual Abuse of a Child Tier III

1. A person is guilty of the offense of Sexual Abuse of a Child Tier III when a person:

a. knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

b. knowingly capture by photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

c. knowingly, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under sixteen (16) years of age or a person the offender believes to be a child under sixteen (16) years of age to engage in sexual conduct, actual or simulated;

d. knowingly processes, develops, prints, publishes, transports, distributes, broadcasts, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

e. knowingly possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

f. possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated; or

g. finances any of the activities, knowing that the activity is of the nature described as Sexual Abuse of a Child.

2. Penalty. For the offense of Sexual Abuse of a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

Q. Visual Representation of a Sexual Act involving a Child Tier III

1. A person commits the offense of Visual Representation of a Sexual Act involving a Child Tier III when a person attempts, conspiracies or knowingly possesses, produces, reproduces, distributes, broadcast, receives, or has the intent to distribute or broadcast, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that:

a. depicts a minor engaging in sexually explicit conduct and is obscene, or

b. depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary, artistic, political, or scientific value.

2. Penalty. For the offense of Visual Representation of a Sexual Act involving a Child Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

R. Incest Tier III

1. A person commits the offense of Incest Tier III when a person knowingly marries a person who is biologically related to the following persons:

a. Parent and child;

b. Grandparent and grandchild;

c. Brother and sister, or half-brother and half-sister;

d. Uncle and niece, or aunt and nephew; or

e. Cousins in the first degree.

2. Penalty. For the offense of Incest Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

(WOS 2009-009, March 8, 2009, Section X)

9.211 REPEATED OFFENDERS TIER III

A. This law establishes a mandatory sentence for certain offenders charged with a Tier I crime who have been convicted twice before of a Tier I crime.

B. Conviction means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

C. The prior convictions were within a ten (10) year time period immediately prior to the charge pending.

D. The Tribal Court is required to sentence an offender as a Repeated Offenses Tier III offender with the following:

1. Penalty. For the offense of Repeated Offenses Tier III, the Tribal Court shall impose a penalty of one (1) year and a $5,000 fine.

(WOS 2009-009, March 8, 2009, Section XI)

9.212 MULTIPLE OFFENSES TIER III

A. When the conduct of a defendant establishes the commission of more than one offense, the defendant may be prosecuted for each such offense, unless:

1. One (1) offense consists only of an attempt to commit the other;

2. Inconsistent findings of fact are required to establish commission of the offenses; or

3. The offenses differ only in that one prohibits a designated kind of conduct generally, and the other prohibits a specific instance of such conduct.

B. The Tribal Court may run the term of sentences either consecutive or concurrent.

(WOS 2009-009, March 8, 2009, Section XII)

9.213 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.

(WOS 2009-009, March 8, 2009, Section XIII)

9.214 EFFECTIVE DATE

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

(WOS 2009-009, March 8, 2009, Section XIV)

Chapter 3. Motor Vehicle and Parking

9.301 TITLE

This Statute shall be known and cited as the Little Traverse Bay Bands of Odawa Indians (LTBB) "Motor Vehicle and Parking Statute."

(Source: WOS 2006-021, November 22, 2006, Section I)

9.302 DEFINITIONS

The following terms shall have the meanings described below for the purposes of this Statute:

A. "**Authorized Emergency Vehicle**" Vehicles of the fire department, police vehicles, ambulances, privately owned motor vehicles of volunteer or paid fireman, or privately owned motor vehicles of volunteer ambulance drivers or licensed ambulance drivers or attendants as are authorized by the LTBB Department of Law Enforcement or the Michigan Secretary of State.

B. “**Careless**” Absence of care; negligent; reckless.

C. “**Negligence**” Is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

D. “**Reckless**” For conduct to be ‘reckless’ it must be such as to evince disregard of, or indifferent to, consequences, under circumstances involving danger to life or safety to others, although no harm was intended.

E. "**Snowmobile**" Any of various automotive vehicles for travel on snow.

F. "**Bicycle**" A device propelled by human power upon which a person may ride, having either two (2) or three (3) wheels in a tandem or tricycle arrangement, all of which are over fourteen (14) inches in diameter.

G. "**Bus**" A motor vehicle designed for carrying sixteen (16) or more passengers, including the driver. Bus does not include a school bus.

H. “**Careless**” Absence of care; negligent; reckless.

I. "**Commercial Vehicle**" Includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

J. "**Controlled Substance**" Marijuana, cocaine, amphetamines, opiates, phencyclidine, barbiturates, and any derivative of any of the above substances, and any other controlled substances as defined in Section 7104 of the Michigan Public Health Code, Act No. 368 of the Public Acts of 1978 (MCL 333.7104).

K. "**Court**" The Little Traverse Bay Bands of Odawa Indian Tribal Court, also known as the LTBB Tribal Court or the Court.

L. "**Cross-walk**":

1. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the roadway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

2. Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

M. "**Driver**" Every person who drives or is in actual physical control of a vehicle.

N. "**Handicapper**" A person who is determined by a physician or an optometrist licensed to practice in the State of Michigan to have a physical handicap.

O. "**Intersection**":

1. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) roads which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

2. Where a road includes two (2) roadways thirty (30) feet or more apart, then every crossing of each road shall be regarded as a separate intersection. In the event such intersecting road also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways shall be regarded as a separate intersection.

P. "**License**" Any driving privilege, license, temporary instruction permit, or temporary license issued under the laws of the Tribe or any U.S. state pertaining to the licensing of persons to operate motor vehicles.

Q. "**Motorcycle**" Every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor.

R. "**Moped**" Two (2) or three (3) wheeled vehicle which is equipped with a motor that does not exceed fifty (50) cubic centimeters piston displacement, produces 2.0 brake horsepower or less, and cannot propel the vehicle at a speed greater than thirty (30) miles per hour on a level surface. The power drive system shall not require the operator to shift gears.

S. "**Motor vehicle**" Every vehicle that is self-propelled, but does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under the laws of the Tribe or the State of Michigan.

T. "**Negligence**" Is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances; it is the doing of some act which a person of ordinary prudence would not have done under similar circumstances or failure to do what a person of ordinary prudence would have done under similar circumstances. Conduct which falls below the standard establishes by law for the protection of others against unreasonable risk of harm; it is a departure from the conduct expectable of a reasonably prudent person under like circumstances.

U. "**Officer**" A law enforcement officer who is employed by the LTBB, including Conservation Officers, or any officer deputized by the LTBB.

V. "**Operating**" Being in actual physical control of a vehicle regardless of whether or not the person is licensed under this Statute as an operator or chauffeur.

W. "**Operator**" Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

X. "**Owner-operator**" An individual who holds the legal title of a commercial vehicle and who leases the commercial vehicle under a lease or arrangement whereby the individual is employed by the lessee to operate the leased vehicle.

Y. "**Owner**" Means any of the following:

1. Any person, firm, association, or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period that is greater than thirty (30) days.

2. A person who holds the legal title of a vehicle.

3. A person who has the immediate right of possession of a vehicle under an installment sales contract.

Z. "**Parking**" Standing a vehicle, whether occupied or not, upon a roadway, when not loading or unloading except when making necessary repairs.

AA. "**Pedestrian**" Any person on foot.

BB. "**Person**" Every natural person, firm, co-partnership, limited liability company, association, or corporation and their legal successors.

CC. "**Reckless**" Careless, heedless, inattentive; indifferent to consequences. For conduct to be "reckless" it must be such as to evince disregard of, or indifferent to, consequences, under circumstances involving danger to life or safety to others, although no harm was intended.

DD. "**Registration**" A registration certificate, plate, adhesive tab, or other indicator of registration required for display on a vehicle pursuant to this Statute.

EE. "**Revocation**" When the operators or chauffeur's license and privilege to operate a motor vehicle on the public roadways are terminated and shall not be renewed or restored until a later date.

FF. "**Right-of-way**" The privilege of the immediate use.

GG. "**Roadway**" or "**Road**" That portion of a road improved, designed, or ordinarily used for vehicular travel.

HH. "**Road**" or "**Street**" The entire width between the boundary lines of every roadway publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

II. "**School bus**" Every motor vehicle, except station wagons, with a manufacturer's rated seating capacity of sixteen (16) or more passengers, including the driver, owned by a public, private, or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school. School bus does not include buses operated by a tribe or a municipally-owned transportation system or by a common passenger carrier certificated by the Michigan Transportation Department.

JJ. "**Sidewalk**" That portion of a street between the curb lines, or the lateral lines of roadway, and the adjacent property lines intended for the use of pedestrians.

KK. "**Street**" or "**Highway**" That portion of a road improved, designed, or ordinarily used for vehicular travel.

LL. "**Stand**" or "**Standing**" The halting of a vehicle, other than for the purpose of, and while engaged in, receiving or discharging passengers.

MM. "**State**" Any state, territory, or possession of the United States, the District of Columbia, or any province of Canada.

NN. "**Stop**" or "**Stopping**" Stop or stopping when prohibited, means the halting, even momentarily, of a vehicle, whether occupied or not. The terms do not apply to the halting of a vehicle which is necessary to avoid conflict with other traffic or which is in compliance with the direction of a police officer or traffic control sign or signal.

OO. "**Suspension**" When the driver's license and privilege to drive a motor vehicle on the public roadways are temporarily withdrawn but only during the period of the suspension.

PP. "**Traffic**" Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any roadway for purposes of travel.

QQ. "**Traffic control devices**" All signs, signals, markings, and devices not inconsistent with this Statute placed or erected by order of the Executive Branch, for the purpose of regulating, warning or guiding traffic.

RR. "**Traffic control signal**" Any device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

SS. "**Tribal Court**" Little Traverse Bay Bands of Odawa Indians Tribal Court, also known as the LTBB Tribal Court and Tribal Court.

TT. "**Tribal Police Officer**" A law enforcement officer who is employed by the LTBB, including Conservation Officers.

UU. "**Tribe**":

1. "**The Tribe**" The Little Traverse Bay Bands of Odawa Indians (LTBB).

2. "**A tribe**" Any federally recognized tribe.

VV. "**Vehicle**" Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and except only for the purpose of titling and registration under the Michigan Motor Vehicle Code, a mobile home as defined in Section 2 of the Michigan Mobile Home Commission Act, Act No. 96 of the Public Acts of 1987, being Section 125.2302 of the Michigan Compiled Laws.

WW. "**Tenses**" The present tense includes the past and future tenses; and the future, the present.

XX. "**Number**" and "**Gender**" The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.

YY. "**Shall**" and "**May**": Shall is mandatory and may is permissive.

(Source: WOS 2006-021, November 22, 2006, Section II)

9.303 CIVIL INFRACTION

Any offense within this Motor Vehicle Statute that does not include incarceration as a possible penalty is deemed to be a civil infraction. As such, the standard of proof is by a preponderance of the evidence at any hearing or trial on a civil infraction offense.

(Source: WOS 2006-021, November 22, 2006, Section III)

9.304 TRIBAL COURT; JUDGE

A. The Judge of the LTBB Tribal Court shall preside over any arraignment, hearing or trial involving an alleged violation of this Statute. The Judge may impose sentencing where a person pleads guilty to an offense under this Statute as proscribed by LTBB Court Rules or Court Fine Schedule. All fines and costs under this statute shall revert to cover the costs of incarceration.

B. **Court Fine Schedule**. The Tribal Court shall develop a Court Fine Schedule within ninety (90) days of enactment of this Statute.

(Source: WOS 2006-021, November 22, 2006, Section IV)

9.305 PENALTIES NOT OTHERWISE PRESCRIBED

Any person who is convicted of or found responsible for an offense enumerated in this Code for which the penalty is not otherwise proscribed may be sentenced at the Court's discretion.

(Source: WOS 2006-021, November 22, 2006, Section V)

9.306 COMPLIANCE WITH ORDER OR DIRECTION OF TRIBAL POLICE OFFICER

A person who refuses to comply with the lawful order or direction of a Tribal police officer when that officer, for public interest and safety, is guiding, directing, controlling, or regulating traffic upon a road or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation may be sentenced to not more than ninety (90) days of incarceration or fined in accordance with

the Court Fine Schedule.

(Source: WOS 2006-021, November 22, 2006, Section VI)

9.307 FAILURE TO OBEY SIGNAL OF TRIBAL POLICE OFFICER

Any driver of a motor vehicle who is given by hand, voice, emergency light, or a siren a visual or audible signal by a Tribal police officer or conservation officer, acting in lawful performance of his duty, directing the driver to bring his motor vehicle to a stop, and who willfully fails to obey that direction by increasing the speed of the motor vehicle, extinguishing the lights of a motor vehicle, or otherwise attempting to flee or elude the officer may be sentenced to incarceration of not more than thirty (30) days, or fined in accordance with the Court Fine Schedule, or both.. The officer giving the signal shall be in uniform and/or the vehicle driven shall be adequately identified as an official police vehicle.

(Source: WOS 2006-021, November 22, 2006, Section VII)

9.308 SPEED RESTRICTIONS

A. Careful and prudent speed (where no posted speed limitation). A person operating or driving a vehicle on a highway within the LTBB reservation shall drive at a careful and prudent rate of speed not greater nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other existing condition. A person shall not drive a vehicle upon a highway greater than that which will permit a stop within the assured, clear distance ahead. A person who violates this provision may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

B. Posted speed limitation. A person who exceeds any speed limitation within the boundaries of the LTBB Reservation posted by Executive Order or the State of Michigan may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

C. Exemption. The speed limitations set forth in this provision shall not apply to vehicles when operated with due regard to safety under the direction of the police in the chase or apprehension of violators of the law or persons charged with or suspects of any such violation,

nor to fire departments when traveling in response to a fire alarm, nor to a public or private ambulance when traveling in emergencies. However, this exemption shall not protect the driver of such vehicle from the consequences of reckless disregard of the safety of others.

(Source: WOS 2006-021, November 22, 2006, Section VIII)

9.309 FAILURE TO STOP FOR SCHOOL BUS FLASHING RED LIGHTS

The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two (2) alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than twenty (20) feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer activated. A person violating this provision is deemed guilty of a misdemeanor and may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

(Source: WOS 2006-021, November 22, 2006, Section IX)

9.310 TRAFFIC DEVICES AND SIGNS; FAILURE TO OBEY

The driver of a motor vehicle shall not disobey the instructions of a traffic-control device, sign, or signal, unless otherwise directed by an officer at the time. In addition, the driver of a vehicle shall not, for the purpose of avoiding obedience to a traffic-control device or sign, drive upon or through private or public property which is not a street or highway. A person violating this provision may be sentenced as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule.

(Source: WOS 2006-021, November 22, 2006, Section X)

9.311 TRAFFIC SIGNS OR SIGNALS; DEFACING, DESTROYING AND/OR REMOVING

No person shall deface, destroy, alter, damage and/or remove traffic or parking sign, signal or traffic-control device that is located within the LTBB reservation. A person who violates this provision may be sentenced to incarceration of not more than thirty (30) days or fined in

accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XI)

9.312 DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING; FOLLOWING TOO CLOSELY

A. Driving on right half of roadway. Upon all highways of sufficient width, the driver of the vehicle shall drive upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction; or

2. When the right half of a roadway is closed to traffic while under construction or repair; or

3. When an obstruction exists making it necessary to drive to the left of the center of the highway. A driver who is driving on the left half of a roadway under this subsection shall yield the right-of-way to any oncoming vehicle traveling in the proper direction upon the unobstructed portion of the roadway.

B. Passing vehicle proceeding in opposite direction. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other (as nearly as possible) not less than one-half (1/2) of the main traveled portion of the roadway.

C. Overtaking and passing of vehicles proceeding in the same directions. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in Subsections D to F herein:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left of that vehicle, and when safely clear of the overtaking vehicle shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable.

2. Except when overtaking and passing on the right is permitted, the driver of an

overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

D. Overtaking and passing on left of another vehicle. A vehicle shall not overtake and pass another vehicle proceeding in the same direction unless the left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of a vehicle approaching from the opposite direction or the vehicle overtaken.

E. Limitations applicable to driving left side of roadway. No person shall at any time drive a vehicle to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within a distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When the view is obstructed upon approaching within one-hundred (100) feet of a bridge, viaduct, or tunnel; or

3. When a no-passing zone is appropriately signed or marked on the roadway.

F. Overtaking and passing on right of another vehicle. The driver of a vehicle may overtake and pass upon the right of another vehicle only if one or more of the following conditions exist:

1. When the vehicle overtaken is making or about to make a left turn.

2. Upon a highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction and when the vehicles are moving in substantially continuous lanes of traffic.

3. Upon a one-way street or upon a roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and a sufficient

width for two (2) or more lines of moving vehicles and when the vehicles are moving substantially continuous lanes of traffic.

4. Further, the driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting the overtaking and passing in safety. The driver of a vehicle shall not overtake and pass another vehicle upon the right by driving off the pavement or main traveled portion of the roadway.

G. Following too closely; distance between vehicles. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of the vehicles and the traffic upon and the condition of the highway.

H. Penalty. A person violating this provision may be sentenced as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule.

(Source: WOS 2006-021, November 22, 2006, Section XII)

9.313 RIGHT-OF-WAY; STOP; AUTHORIZED EMERGENCY VEHICLE OR FUNERAL PROCESSION; PEDESTRIAN

A. Right-of-way; vehicle(s) approach at different time. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

B. Right-of-way; vehicle(s) approach at same time. When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

C. Yield sign. The driver of a vehicle approaching a yield sign, in obedience to the sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to a vehicle in the intersection or approaching on another road so closely as to constitute an immediate hazard during the time the driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is not a crosswalk, at a clearly marked stop sign; but if

there is not a crosswalk or a clearly marked stop sign, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

D. Stop sign. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the nearest side of the intersection, or if there is not a crosswalk shall stop at a clearly marked stop line; or if there is not a crosswalk or a clearly marked stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right-of-way to a vehicle which has entered the intersection from another road or which is approaching so closely on the road as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.

E. Turning left without a signal or with a 4-way stop. The driver of a vehicle within an intersection where there are no signals or where there is a 4-way stop intending to turn to the left shall yield the right-of-way to a vehicle approaching from the opposite direction which is within the intersection or so close to the intersection as to constitute an immediate hazard; but the driver, having so yielded and having given a signal when and as required by this provision, may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

F. Turning left at a signal. At an intersection where a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction to pass through the intersection before making the turn.

G. Turning left from a road into a driveway. The driver of a vehicle turning left from a road into a driveway shall yield the right-of-way to vehicle(s) approaching on the road.

H. Entering a crossing road from alley, private road, or driveway. The driver of a vehicle about to enter or cross a road from an alley, private road, or driveway shall come to a full stop before entering the road and shall yield the right-of-way to vehicles approaching on the road.

I. Immediate approach of authorized emergency vehicle. Upon the approach of an authorized emergency vehicle equipped with and making use of audible signals and/or flashing,

rotating, or oscillating signals, the driver of another vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of any intersection, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a Tribal police officer. This provision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the road.

J. Approach of funeral procession. Upon the approach of a funeral procession, the driver of another vehicle, with the exception of fire apparatus, ambulances and police vehicles, shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of any intersection, and shall stop and remain in that position until the entire funeral procession has passed, except when otherwise directed by a Tribal police officer. In addition, the driver of a vehicle that approaches a funeral procession from the rear shall not pass said funeral procession.

K. Pedestrians. Where sidewalks are provided, a pedestrian shall not walk upon the main traveled portion of the road. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the roadway facing traffic which passes nearest.

L. Penalty. A person who violates any subsection of this provision may be sentenced as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XIII)

9.314 TURNING; SIGNALS ON STOPPING AND TURNING

A. Turning at intersection. The driver of a vehicle intending to turn at an intersection shall do so as follows:

1. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line in a manner as not to interfere with the progress of any

other vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

3. Approach for a left turn from a 2-way roadway into a 1-way roadway shall be made in that portion of the right half of the roadway nearest the center line and clear of existing car tracks in use, and by passing to the right of the center line where it enters the intersection. Approach for a left turn from a 1-way roadway into a 2-way roadway shall be made as close as practicable to the left curb or edge of the roadway and by passing to the right of the center line of the roadway being entered.

4. Where both streets and roadways are 1-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

B. Signals for stopping or turning. The driver of a vehicle before stopping or turning from a direct line shall first see that the stopping or turning can be made in safety and shall use a vehicle's signal to alert other drivers to the direction being turned.

C. Penalty. A person violating this Section may be sentenced as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule.

(Source: WOS 2006-021, November 22, 2006, Section XIV)

9.315 STOPPING, STANDING OR PARKING ON A ROAD

A. Offense regarding stopping the engine/set brakes. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, effectively setting the brake, and when standing upon any grade, turning the front wheels to the curb or side of the highway.

B. Penalty. A person who violates this Section may be sentenced as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule.

9.316 PROHIBITED PARKING

A. **Offense**. No person shall park a vehicle, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of an officer or traffic-control device, in any of the following places:

1. On a sidewalk.

2. In front of a public or private driveway blocking entry or exit from said driveway.

3. Within an intersection.

4. Within fifteen (15) feet of a fire hydrant.

5. On a crosswalk.

6. Within twenty (20) feet of a crosswalk, or if there is not a crosswalk, then within fifteen (15) feet of the intersection of property lines at an intersection of highways.

7. Within thirty (30) feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway.

8. Between a safety zone and the adjacent curb or side of roadway or within thirty (30) feet of a point on the curb or immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking.

9. Within twenty (20) feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within seventy-five (75) feet of the entrance if property marked by an official sign.

10. Alongside or opposite a street excavation or obstruction, if the stopping, standing or parking would obstruct traffic.

11. On the roadway side of a vehicle stopped or parked at the edge or curb of a roadway.

12. Upon a bridge or other elevated highway structure or within a highway tunnel.

13. At a place where an official sign prohibits stopping or parking.

14. Or within a safe distance seventy-five (7).

15. In a place or in a manner which blocks or hampers the immediate use of an immediate egress from an emergency exit or fire escape conspicuously marked as an emergency exit or fire escape from a building.

16. In a parking space clearly identified by an official sign as being reserved for use by handicappers which is on public property or private property available for public use, unless the person is a handicapper as described in Chapter II Section I or unless the person is parking the vehicle for the benefit of a handicapper. In order for the vehicle to be parked in the parking space, the vehicle shall display one (1) of the following:

a. A certificate of identification or windshield placard issued under MCLA 257.675 to a handicapper.

b. A special registration plate issued pursuant to MCLA 257.803d to a handicapper.

c. A similar special certificate of identification or windshield placard issued by the Tribe to a handicapper.

d. A similar registration plate issued by the Tribe to a handicapper.

e. A special registration plate to which a handicapper tab is attached issued under the Michigan Motor Vehicle Code.

17. Within five-hundred (500) feet of a fire when emergency service vehicles or personnel are present. However, volunteer fire fighters responding to the fire may park within five-hundred (500) feet of the fire in a manner not to interfere with emergency

services personnel at the scene. A vehicle parked legally previous to the fire is exempted from this Subsection.

18. In violation of an official sign restricting the period of time for, or manner of, parking.

19. On a street or highway in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States Postal Service.

20. Outside the boundaries of lines so designated for parking within parking lots or otherwise.

B. Removal of illegally parked vehicle. Whenever an officer finds a vehicle in violation of this Section, such officer is authorized to remove such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position deemed to be legal parking. Any costs associated with removal of such a vehicle shall be the responsibility of the driver, owner or lessee of the vehicle as may be determined to be applicable by the Court.

C. Penalty. A person who violates any Section of this provision shall be sentenced as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XVI)

9.317 INTERFERENCE WITH VIEW OR CONTROL OF DRIVER OR OPERATION; OBSTRUCTION

A. Driver. A person shall not drive a vehicle when it is loaded or when there are in the front seat a number of persons so as to obstruct the view of the driver to the front or sides of the vehicle or so as to interfere with the driver's control over the driving mechanism of the vehicle.

B. Passenger. A passenger in a vehicle shall not ride in a position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

C. Penalty. A person who violates any Section of this provision may be sentenced as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XVII)

9.318 STOPPING AT SCENE OF ACCIDENT; DUTIES AND REPORTING; GIVING INFORMATION AND AID

A. Accident where injury or death. The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting in either injury to or death of a person shall immediately stop his or her vehicle at the scene of the accident and shall remain there until he or she complies with the provisions of Subsection (C) herein; the stop shall be made without obstructing traffic more than is necessary. A person violating this provision may be sentenced to incarceration of not more than one (1) year or fined in accordance with the Court Fine Schedule, or both.

B. Accident where damage to property. The driver of the vehicle who knows or who has reason to believe that he or she has been involved in either an accident resulting only in damage to a vehicle which is driven or attended by any person or an accident resulting only in damage to fixtures or other property legally on or adjacent to the highway shall immediately stop such vehicle at the scene of the accident and shall remain there until he or she has complied with the provisions of Subsection (C) herein; the stop shall be made without obstructing traffic more than is necessary. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, or both.

C. Reporting to other driver/person; giving information and aid; exchanging information for safety reasons and help when needed. The driver of any vehicle who knows or who has reason to believe that s/he has been involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give her/his name and address, the registration number of the vehicle s/he is driving, the name and address of the owner of the vehicle s/he is driving and shall also exhibit his operator's or chauffeur's license to the person struck or the driver or occupant(s) of any vehicle collided with and shall render to any and all person(s) injured in the accident reasonable assistance in securing

medical aid or transportation of the person(s). Further, the driver of any vehicle which collides with another vehicle that is unattended, or who knows or has reason to know that s/he has been involved in an accident resulting only in damage to fixtures or other property legally on or adjacent to the highway, shall take reasonable steps to locate and notify the owner or person in charge of such unattended vehicle, fixtures, or other property involved in the accident and also provide his name and address, the name and address of the owner of the vehicle which s/he is driving, and the registration number of the vehicle he is driving, and shall upon request, exhibit his operator's or chauffeur's license to said owner or person in charge; or if such person cannot be located, said driver shall report said accident to the nearest Tribal police officer. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, or both.

D. Reporting to Tribal Police Officer. The driver of a vehicle involved in an accident either resulting in injury to or death of any person or resulting in property damage to a motor vehicle, fixtures or other property legally on or adjacent to the road that appears to be in excess of one-hundred dollars ($100) or more, shall as soon as practical thereafter, give notice of such accident to a Tribal police officer of the LTBB. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XVIII)

9.319 DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLING SUBSTANCE; RECKLESS DRIVING; CARELESS OR NEGLIGENT DRIVING

A. Driving under intoxicating liquor or controlled substance.

1. Offense. A person, whether licensed or not, shall not operate a vehicle upon a road or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation if either of the following applies:

a. The person is under the influence of intoxicating liquor or a controlled

substance, or a combination of intoxicating liquor and a controlled substance.

b. The person has an alcohol content of 0.08 grams or more per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty seven (67) milliliters of urine.

2. Penalty; First Offense. A person violating this provision for a first time may be sentenced to community service of not more than forty-five (45) days, incarceration of not more than ninety (90) days, or a fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

3. Penalty; Second Offense. A person violating this provision for a second time may be sentenced to community service of not more than ninety (90) days, incarceration of not more than one-hundred-eighty (180) days, or fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

4. Penalty; Third Offense or more. A person violating this provision for the third time or more may be sentenced to community service of not more than one-hundred-eighty (180) days, incarceration of not more than one (1) year, or fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

B. Permitting person to drive vehicle while under influence of intoxicating liquor or controlled substance.

1. Offense. The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a road or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the Little Traverse Bay Bands of Odawa Indians' reservation by a person who is under the influence of intoxicating

liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has an alcohol content of 0.08 grams or more per one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty-seven (67) milliliters of urine.

2. **Penalty**. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, or fined in accordance with the Court Fine Schedule, or both.

C. Driving under the influence of intoxicating liquor when person is less than twenty-one (21) years of age.

1. **Offense**. A person who is less than twenty-one (21) years of age, whether licensed or not, shall not operate a vehicle upon a roadway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Little Traverse Bay Bands of Odawa Indians' reservation if the person has any bodily alcohol content. As used in this Subsection, "any bodily alcohol content" means either of the following:

a. An alcohol content of not less than 0.02 grams or more than 0.07 grams per one hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty- seven (67) milliliters of urine.

b. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor.

2. **Penalty; First Offense**.

a. A person violating this provision for a first time may be sentenced to community service of not more than forty-five (45) days, or fined in accordance with the Court Fine Schedule, or both.

b. In addition, see Subsections 4 and 5 below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

3. Penalty; Second Offense or more.

a. A person violating this provision for a second time or more may be sentenced to community service of not more than sixty (60) days, or fined in accordance with the Court Fine Schedule, or both.

b. In addition, see Subsections 4 and 5 below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

4. Screening and Assessment: Rehabilitative Services/Treatment Programs. Before imposing a sentence for a violation of Subsections A, B, or C herein, the Tribal Court may order the person to undergo screening and assessment by a person or agency designated by the LTBB office of Substance Abuse Services or other similar agency to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and/or treatment programs. As a part of the sentence, the Court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the cost of the screening, assessment, and rehabilitative services; however, if the person is unable to afford the screening, assessment, and/or rehabilitative/treatment programs, the Tribal Court may still order the same provided that the LTBB Health Services advises the Tribal Court that there are other available means for covering the cost(s).

D. Licenses Sanctions; Acceptance of Plea of Guilty/Advising of Suspension or Revocation. Before accepting a plea of guilty under this Section, the Tribal Court shall advise the accused that the consequences of a plea of guilty include the suspension or revocation of his operator's or chauffeur's license being a possible penalty imposed for violation of this Section. In addition to the other penalties set forth in this Section, the Court may order any of the following concerning the operator's or chauffeur's license of the driver:

1. Suspend or revoke said license; and/or

2. Require the driver to surrender his or her operator's or chauffeur's license to the Court immediately; or

3. Order that the person may not drive or otherwise operator a motor vehicle upon the roads or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation for a definite or indefinite period of time, subject to the Court's discretion.

E. Restricted License. In the event that the Tribal Court either suspends or revokes the privilege of driving as set forth in Subsection 3 above, the defendant may petition or request a restricted license or restricted order upon good cause shown. In making such a request, the defendant must also demonstrate that he is unable to take public transportation to and/or from his work location, educational institution, treatment location or Court-Ordered Community Service Program and that he does not have any family members or others able to provide such transportation. In the event that the Court determines that good cause has been shown for a restricted license, such a restricted license or Court Order restricting the driving of a motor vehicle within the LTBB reservation shall be limited to one or more of the following:

1. Drive to and from the person's residence and work location.

2. Drive in the course of the person's employment or occupation.

3. Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the Court.

4. Drive to and from the person's residence and the Court probation department, or a court-ordered community service program, or both.

5. Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

F. Reckless driving. Any person who drives any vehicle upon the road or frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of motor vehicles, within the LTBB reservation in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and may be sentenced to incarceration of not more than forty-five (45) days, or fined in accordance with the Court Fine Schedule, or

both.

G. Careless or negligent driving. A person who operates a vehicle upon a road or a frozen public lake, stream, or pond or other place open to the general public, including any area designated for the parking of motor vehicles, within the LTBB reservation in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XIX)

9.320 ARREST WITHOUT WARRANT WHERE REASONABLE CAUSE EXISTS; PRELIMINARY CHEMICAL BREATH ANALYSIS; TESTING; EVIDENCE; AVAILABILITY OF TEST RESULTS; PRESUMTIONS; ADMISSIBILITY OF EVIDENCE; REFUSAL TO SUBMIT TO CHEMICAL TEST

A. Arrest without warrant where reasonable cause exists. An officer may arrest a person without a warrant or detain a person for such arrest when the officer has reasonable cause to believe the person was, at the time of an accident within the LTBB reservation, the operator of a vehicle involved in an accident and was operating the vehicle in violation of Section XIX A or C.

B. Preliminary chemical breath analysis. An officer who has reasonable cause to believe that a person was operating a vehicle upon a public road or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation and that the person by the consumption of intoxicating liquor may have affected his ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the LTBB reservation while the person's blood, breath or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than twenty-one (21) years of age was operating a vehicle upon a public road or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation while the person had any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered

pursuant to this Subsection:

1. An officer may arrest a person or detain a person for arrest based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis are admissible in a prosecutor for a violation of Section XIX for one or more of the following purposes:

a. To assist the Tribal Court in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

b. As evidence of the defendant's breath alcohol content, if offered by the defendant.

c. As evidence of the defendant's breath alcohol content, if offered by the prosecutor to rebut testimony or other evidence, including but not limited to testimony elicited on cross-examination of a prosecutor witness, that is offered or elicited to prove that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered pursuant to Subsection C herein.

2. A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by an officer is responsible for a civil infraction.

C. Chemical test and analysis of blood, urine or breath (other than preliminary chemical breath analysis). The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

1. The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

2. A person arrested and/or charged with violating Section XIX shall be advised of

all of the following:

a. If he takes a chemical test of his blood, urine, or breath administered at the request of an officer, he has the right to demand that a person of his own choosing administer 1 of the chemical tests.

b. The results of the test are admissible in a Court proceeding as provided under this Motor Vehicle and Parking Code and will be considered with other competent evidence in determining the defendant's innocence, guilt or responsibility.

c. He is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his own request.

d. If he refuses the request of an officer to take a test described in Subparagraph (a), a test shall not be given without a Court order, but the officer may seek to obtain such a Court order.

e. Refusing an officer's request to take a test described in Subparagraph (a) will result in either the suspension of his operator's or chauffeur's license and vehicle group designation or operating privilege or entry of a Court Order prohibiting the operation of a motor vehicle within the LTBB reservation.

3. A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician who is qualified to withdraw blood and acting in a medical environment, may withdraw blood at an officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this Subsection.

4. A chemical test described in this Subsection shall be administered at the request of an officer having reasonable grounds to believe the person has violated Section XIX. A person who takes a chemical test administered at an officer's request as provided in this Section shall be given a reasonable opportunity to have a person of his own choosing

administer one of the chemical tests described in this Subsection within a reasonable time after his detention. The test results are admissible in Court and shall be considered with other competent evidence in determining the defendant's innocence, guilt or responsibility. If the person charged is administered a chemical test by a person of his or her choosing, the person charged is responsible for obtaining the chemical analysis of the test sample.

5. If after an accident, the driver of a vehicle involved in an accident is transported to a medical facility and a sample of the driver's blood is withdrawn at the time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time of the accident, regardless of whether the person had been offered or refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a Tribal or other applicable prosecuting attorney who requests the results for use in a prosecutor. A medical facility or person disclosing information in compliance with this Subsection is not civilly or criminally liable for making the disclosure.

6. If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a matter directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood at the time of the accident. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to any other applicable law enforcement agency.

7. In administering chemical tests for the purposes of this Section, a Tribal officer shall comply with any uniform rules that are promulgated by the Michigan Department of State Police; similarly, an instrument for preliminary chemical breath analysis may be used for a chemical test described in this Subsection if approved pursuant to rules promulgated by the Michigan Department.

D. Evidence. The provisions of Subsection C relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was

under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.08 grams or more per one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty-seven (67) milliliters of urine, or if the person is less than twenty-one (21) years of age, whether the person had any bodily alcohol content within his body. As used in this Subsection, "any bodily alcohol content" means either of the following:

1. An alcohol content of not less than 0.02 grams or more than 0.07 grams per one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty (67) milliliters of urine.

2. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor.

E. Availability of test results. If a chemical test described in Subsection C is administered, the test results shall be made available to the person charged or the person's attorney or advocate upon written request to the prosecutor, with a copy of the request filed with the Tribal Court. The prosecutor shall furnish the results at least ten (10) days before the day of the trial the Prosecutor shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecutor.

F. Admissibility of evidence. A person's refusal to submit to a chemical test as provided in Subsection C is admissible in a prosecutor described in Section XIX (C)(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence, guilt or responsibility. In a jury trial, the jury shall be instructed accordingly.

G. Refusal to submit to chemical test. If a person refuses the request of an officer to submit to a chemical test offered pursuant to Subsection C above, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(Source: WOS 2006-021, November 22, 2006, Section XX)

9.321 OPEN INTOXICANT(S) IN MOTOR VEHICLE

A. "**Driver/Owner**" The owner and/or driver of a motor vehicle shall not possess or allow to be maintained open intoxicant(s) in or on a motor vehicle when such vehicle is in operation upon the road(s) of or in an area used principally for public parking within the LTBB reservation.

B. "**Passenger**" No person shall have in his possession or on his person any open intoxicant(s) while in or on a motor vehicle in operation upon the road(s) of or in an area used principally for public parking within the LTBB reservation.

C. "**Open intoxicants defined**" An open intoxicant is any bottle or receptacle containing alcoholic beverages that has been opened, or the seal broken, or the contents of which have been partially removed.

D. "**Utility / Glove Compartment**" A utility compartment or glove compartment of a motor vehicle shall be deemed to be within the area occupied by the driver and passengers of a vehicle.

E. "**Penalty**" A person violating this provision may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXI)

9.322 CHILD RESTRAINT SYSTEM REQUIRED

A. **Offense**. A driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system which meets the standards prescribed in 49 CFR 571.213 as follows:

1. Any child less than one (1) year of age.

2. Any child one (1) year of age or more but less than four (4) years of age, when transported in the front seat.

3. Any child one (1) year of age or more but less than four (4) years of age, when transported in the rear seat; however, as an alternative, a child of this age when transported in the rear seat may be secured by a safety belt provided in the motor vehicle.

B. Exception. This Section does not apply if the motor vehicle being driven is a bus, school bus, taxi cab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulation.

C. Penalty. A person who violates this Section may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXII)

9.323 OPERATOR'S AND CHAUFFEUR'S LICENSE

A. Possession of valid license. A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation unless he possesses at all times a valid operator or chauffeur license, and shall display the same upon demand of any Tribal Police Officer, who shall identify himself as such. A person violating this provision may be sentenced to incarceration of not more than sixty (60) days, or fined in accordance with the Court Fine Schedule, or both.

B. Invalid license. A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation unless that person has a valid operator's or chauffeur's license with the appropriate group designation and/or other endorsements for the type or class of vehicle being driven or towed as required by the State or Tribe that issued the license. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

C. Suspended or revoked license. A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation if that person's license has been canceled, suspended or revoked by any State or Tribe. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both. In addition, the Tribal Court may report this violation and the disposition of the same to the Tribe or State that canceled suspended or revoked said license.

D. Restricted license (via Court Order). A person whose license has been restricted by any Tribal Court or State Court shall not drive a motor vehicle upon a road or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation in violation of the restrictions set forth in said court order. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both. In addition, the Tribal Court may report this violation and its disposition to the Court that restricted the license of said driver.

E. Permit operation of vehicle in violation of this section. No person shall knowingly authorize or permit a motor vehicle owned by him or under his control to be driven by any person who is in violation of Subsections A, B, C or D herein. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

F. Permit operation of vehicle by unlicensed minor. It shall be unlawful for any person to cause or knowingly permit any minor to drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation unless the minor has first obtained either a license to drive a motor vehicle or a temporary instruction driving permit as referred to in Subsection (G) herein. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

G. Temporary instruction driving permit. In the event that a person has been issued a temporary instruction driving permit by a tribe or State, said person shall not drive a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation unless he or she possesses said temporary instruction driving permit and is accompanied by a licensed adult operator or chauffeur who is actually occupying a seat beside the driver. A person violating this provision may be sentenced as proscribed by court rules fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXIII)

9.324 REGISTRATION; LICENSE PLATE; AND INSURANCE

A. Registration. A person shall not drive or otherwise operate a motor vehicle or other vehicle that is required to be registered under the laws of the Tribe or the State of Michigan upon a road or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation that is not properly registered in accordance with the laws of the Tribe or the State of Michigan.

B. Registration / License plate. A person shall not operate, nor shall an owner knowingly permit to be operated, upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation a vehicle required to be registered in accordance with the laws of the Tribe or the State of Michigan unless there is attached to and displayed on the vehicle a valid registration or license plate in the location on said vehicle as required by Tribal or Michigan law.

C. Liability insurance. A person shall not operate, nor shall an owner knowingly permit to be operated, upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation a vehicle unless said vehicle shall have in full force and effect at the time of said operation a policy of liability insurance comporting in all respects with the laws of the Tribe or the State of Michigan.

D. Penalty. A person violating this provision may be sentenced as proscribed by court rules fined in accordance with the Court Fine Schedule, or both. In addition, the Tribal Court may require the driver and/or owner of a vehicle to secure the appropriate registration, license plate, or insurance within a designated time period and to provide proof of the same to the Tribal Court.

(Source: WOS 2006-021, November 22, 2006, Section XXIV)

9.325 OPERATION OF BICYCLES, MOTOCYCLES AND MOPEDS

A. Duty of parent or guardian; laws applicable to bicycles or motorcycles. The parent of a child or the guardian of a ward shall not authorize or knowingly permit the child or ward to

violate this Section. The provisions applicable to bicycles in this Section shall apply when a bicycle is operated upon a road or upon a path set aside for the exclusive use of bicycles within the LTBB reservation, subject to any exceptions stated in this Section. The provisions applicable to motorcycles in this Section shall be considered supplementary to other Sections of this Code governing the operation of motorcycles.

B. Rights / Duties of persons operating bicycle / moped. Every person riding a bicycle or moped upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as set forth in this Code, except as to special regulations in this Section and except as to those provisions of this Code which by their nature do not have application.

C. Riding on seat; number of persons; crash helmets; snowmobile requirements.

1. Moped; number of persons. A moped shall not be used to carry more than one person at a time.

2. Crash helmet. A person operating or riding on a motorcycle or a moped on a public thoroughfare shall wear a crash helmet on his head. Such crash helmet shall be of a type that has been approved by the Michigan Department of Transportation and any and all rules or regulations promulgated by the National and State Departments of Transportation. Regarding such helmets shall apply to this Subsection. However, this Subsection does not apply to a person operating or riding in a snowmobile if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.

D. Operation while attached to vehicle. A person riding upon a bicycle, moped or motorcycle, coaster, roller skates, roller blades, sled, or toy vehicle shall not attach the same or himself to a vehicle upon any roadway or highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation.

E. Operation of motorcycles or mopeds on roadway or sidewalk.

1. A person operating a moped upon a roadway shall ride as near to the right side of

the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. A motorcycle is entitled to full use of a lane and a motor vehicle shall not be driven in such a manner as to deprive a motorcycle of the full use of a lane. This Subsection shall not apply to motorcycles operated two (2) abreast in a single lane.

2. A person riding a moped upon a roadway shall ride single file.

3. A person operating a motorcycle or moped shall not pass between lines of traffic, but may pass on the left of traffic moving in his direction in the case of a 2-way street, or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

4. A moped shall not be operated on a sidewalk constructed for the use of pedestrians.

5. A person shall not operate motorcycle or moped at a speed greater than is reasonable and prudent under the conditions then existing.

6. This Section shall not apply to a Tribal police officer in the performance of his official duties.

F. **Penalty**. A person who violates any Section of this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXV)

9.326 OPERATING MOTORCYCLE OR MOPED ON SIDEWALK OR BICYCLE PATH

A person shall not operate or ride a motorcycle or moped, or other motor vehicle, excepting a motorized wheel chair, upon a bicycle path or sidewalk regularly laid out and constructed for the use of pedestrians, not including a crosswalk or driveway. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXVI)

9.327 PROHIBITED OPERATION OF MOTOR VEHICLE, MOTORCYCLE, MOPED OR OTHER MOTORIZED VEHICLE IN PLAYGROUND / LAWN AREAS

A. Offense Re: Little Traverse Bay Bands of Odawa Indians. No person shall operate a motor vehicle, moped or other motorized vehicle of any type in or on any playground, lawn areas or other posted areas within the LTBB reservation, unless otherwise authorized.

B. Offense Re: LTBB Housing Department. No person shall operate a motor vehicle, moped or other motorized vehicle within any playground or lawn areas controlled by the Housing Department.

C. Penalty. A person violating this Section may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXVII)

9.328 VIOLATION OF COURT ORDER RESULTING FROM PRIOR CODE

In the event that this Court issues an order as a result of the violation of this Code and a person violates said court order, said person may then be sentenced for such a violation as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

(Source: WOS 2006-021, November 22, 2006, Section XXVIII)

9.329 ABANDONED VEHICLE: DEFINITION AND PROCEDURE FOR DISPOSTION

A. Abandoned vehicle defined. "Abandoned Vehicle" means a vehicle that has remained on public property, including a roadway maintained by the Tribe or by the Emmet County Road Commission, or property under lease by the Tribe to an individual or entity, for a period of forty (48) hours, after the Law Enforcement Department has affixed a written notice to the vehicle.

B. Apparent abandonment procedure. If a vehicle has remained on public property for at least 24 hours, or leased property for a period of time so that it appears to the Law Enforcement Department to be abandoned, the Department shall do all of the following:

1. Determine if the vehicle has been reported stolen.

2. Affix a written notice to the vehicle, which shall contain the following information:

a. The date and time the notice was affixed.

b. The name and address of the Department.

c. The name and badge number of the officer affixing the notice.

d. The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

e. The year, make, and vehicle identification number of the vehicle, if available.

C. Failure to remove; custody. If the vehicle is not removed within forty (48) hours after the date the notice was affixed, the property is considered abandoned and the Department may have the property taken into custody.

D. Department custody; consequences. Upon taking custody of a vehicle, the Department shall do all of the following:

1. Recheck to determine if the vehicle has been reported stolen.

2. Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network (LEIN).

3. Within seven (7) days after taking the vehicle into custody, send to the registered

owner and secured party, as shown in the records of the Michigan Secretary of State, by first class mail or personal service, notice that the vehicle is considered abandoned.

E. Request for hearing. The registered owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for hearing shall be made by filing a petition with the Tribal Court within twenty (20) days after the date of the notice. If the owner requests a hearing, it shall be conducted as provided in this Section. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the Tribal Court in an amount equal to the accrued towing and storage fees. If the Court finds that the vehicle was not properly considered abandoned, the Department shall reimburse the owner of the vehicle for the accrued towing costs, storage fees and actual damages.

F. Payment of charges without hearing request. If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

G. Payment by secured party for release. If the owner does not redeem the property or request a hearing within the requisite twenty (20) days after the date of the notice, the secured party may obtain the release of the property by paying the accrued charges to the custodian of the property and the Department for its accrued costs.

H. Public sale authorized. No less than twenty (20) days after the disposition of the hearing described in Subsection (K) of this Section, or, if a hearing is not requested, not less than twenty (20) days after the date of the notice, the Tribal Court shall offer the vehicle for sale pursuant to Subsection (L).

I. Ownership not ascertainable. If the ownership of the vehicle that is considered abandoned cannot be determined either because of the condition of the vehicle identification numbers or because a check of the records of the Michigan Secretary of State does not reveal ownership, the Tribal Court shall sell the vehicle at public sale pursuant to Subsection (L), not less than thirty (30) days after public notice of the sale has been published.

J. Scrap vehicle procedures. f an abandoned vehicle is also seven (7) or more years old,

and apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe would exceed the fair market value of that vehicle, the Department may take the vehicle into custody and, in addition to the requirements of Subsection (D), make a report detailing the damage or missing equipment which includes two (2) photographs of the vehicle, and complete a release form and release the vehicle to the towing service or used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit the release form to the Michigan Secretary of State and apply for a certificate of the title or a certificate of scrapping. In the event that a hearing is requested by the registered owner as provided in Subsection (E), the Department shall maintain custody of the vehicle and shall not issue a release form unless or until so authorized by an order of the Tribal Court.

K. Hearing in Tribal Court. Upon receipt of a petition signed by the owner of the vehicle taken into custody by the Department as prescribed in Subsection (E), the Tribal Court shall schedule a hearing within twenty (20) days for the purpose of determining whether the Department acted properly, at which hearing the Department shall have the burden of demonstrating, by a preponderance of the evidence, that it complied with the requirements of this Section. At the conclusion of the hearing, the Tribal Court shall issue a decision which shall include one or more of the following:

1. A finding that the Department complied with the procedures for processing an abandoned vehicle and order providing a period of twenty (20) days after the decision for the owner to redeem the property. If the owner does not redeem the property, the Tribal Court shall dispose of the property as provided in Subsection (L).

2. A finding that the Department did not comply with the procedures for processing an abandoned vehicle, and an order directing that the property be immediately released to the owner, and that the Department is responsible for the accrued towing and storage fees.

3. A finding that the towing and daily storage fees were reasonable. The sale shall not occur less than five (5) days after the public notice is published in the newspaper of the LTBB and the Tribe's website.

4. The money received from the public sale shall be applied in the following order of

priority:

a. Towing and storage charges.

b. Expenses incurred by the Law Enforcement Department.

c. To the secured party, if any, in the amount of the debt outstanding on the vehicle.

d. Remainder, if any, to the owner, which shall be remitted by registered first class mail, return receipt requested. In the event that such mail is not deliverable, the sum shall become the property of the LTBB.

5. If the Tribal Court Clerk receives no bids on the vehicle, the Clerk may either turn the vehicle over to the towing firm to satisfy charges against the vehicle, hold another public sale, or declare the property to be forfeited to the LTBB and subject to the Tribe's disposition.

6. Upon disposition of the vehicle, the Department shall cancel the entry into the law enforcement information network (LEIN).

(Source: WOS 2006-021, November 22, 2006, Section XXIX)

9.330 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-021, November 22, 2006, Section XXX)

Chapter 4. Check, Draft or Order for Payment of Money

9.401 PURPOSE

The purpose of this Statute is to protect the financial resources for The Little Traverse Bay Bands of Odawa Indians through the imposition of imprisonment and/or fines on any person who issues a check, draft, or order for payment of money to The Little Traverse Bay Bands of Odawa Indians, a department of The Little Traverse Bay Bands of Odawa Indians, or any enterprise that is owned by The Little Traverse Bay Bands of Odawa Indians, that is returned unpaid from the issuer's financial institution.

(Source: WOS 2004-05, September 26, 2004, Section I)

9.402 DEFINITIONS

A. The word "**credit**" as used herein, shall mean an arrangement or understanding with the bank or depository, for the payment of such check, draft, or order, in full, upon the presentation thereof for payment.

B. "**Imprisonment**" means confinement in a jail or other facility, or community service as may be ordered by the Court.

(Source: WOS 2004-05, September 26, 2004, Section II)

9.403 APPLICABILITY

This Statute applies to all persons that fall under the jurisdiction of The Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2004-05, September 26, 2004, Section III)

9.404 CHECK, DRAFT, OR ORDER FOR PAYMENT OF MONEY; MAKING, DRAWING, UTTERING, OR DELIVERING WITHOUT SUFFICIENT FUNDS WITH INTENT TO DEFRAUD; VIOLATION, PENALTIES

The following provisions shall apply to all checks, drafts, or orders for payment of money within the jurisdiction of The Little Traverse Bay Bands of Odawa Indians:

A. A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.

B. A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud if the person does not have sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy, or other lawful cause and that fact was not known to the person when the person made, drew, uttered, or delivered the check, draft, or order.

C. A person who violates this section is guilty of a crime as follows:

1. If the amount payable in the check, draft, or order is less than $100.00, as follows:

a. For a first offense, a misdemeanor punishable by imprisonment for not more than thirty (30) days or a fine of not more than $500.00, or both.

b. For an offense following one (1) or more prior convictions under this section or a local ordinance substantially corresponding to this section, a misdemeanor punishable by imprisonment for not more than six (6) months or a fine of not more than $1,000.00, or both.

2. If the amount payable in the check, draft, or order is $100.00 or more but less than $500.00, as follows:

a. For a first or second offense, a misdemeanor punishable by imprisonment for not more than six (6) months or a fine of not more than $1,000.00 or three (3) times the amount payable, whichever is greater, or both imprisonment and a fine.

b. For an offense following two (2) or more prior convictions under this section, a felony punishable by imprisonment for not more than one (1) year or a

fine of not more than $2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection IV(C)(1).

3. If the amount payable in the check, draft, or order is $500.00 or more, a felony punishable by imprisonment for not more than one (1) year or a fine of not more than $2,000.00 or three (3) times the amount payable, whichever is greater up to $5,000.00, or both imprisonment and a fine.

D. If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having one (1) or more prior convictions, the prosecuting attorney shall include in the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, one (1) or more of the following:

1. A copy of the judgment of conviction.

2. A transcript of a prior trial, plea-taking, or sentencing.

3. Information contained in a pre-sentence report.

4. The defendant's statement.

E. A person shall not, with intent to defraud, make, draw, utter, or deliver any check, draft, or order for payment of money, to apply on an account or otherwise, upon any bank or other depository, it at the time of making, drawing, uttering, or delivering the check, draft, or order he or she does not have an account in or credit with the bank or other depository for the payment of the check, draft, or order upon presentation. A person who violates this section is guilty of a felony, punishable by imprisonment for not more than one (1) year, or by a fine of not more than $500.00, or both.

F. A person shall not, with intent to defraud, make, utter, or deliver, within a period of not

more than ten (10) days, three (3) or more checks, drafts, or orders for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of making, drawing, uttering, or delivering each of the checks, drafts, or orders that the maker or drawer does not have sufficient funds or credit with the bank or other depository for the payment of the check, draft, or order in full upon its presentation. A person who violates this section is guilty of a felony, punishable by imprisonment for not more than one (1) year, or by a fine of not more than $500.00, or both.

G. Evidence of intent to defraud, etc. – As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft, or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within five (5) days after receiving notice that such check, draft or order has not been paid by the drawee.

H. Notice of protest as evidence of intent to defraud, etc. – Where such check, draft, or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible proof of presentation, non-payment and protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with such bank or other depository.

(Source: WOS 2004-05, September 26, 2004, Section IV)

9.405 SAVINGS CLAUSE

In the event that any phrase, part, provision, 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, part, provision, paragraph, subsection or section shall be considered to stand alone and be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

(Source: WOS 2004-05, September 26, 2004, Section V)

9.406 EFFECTIVE DATE

This Statute shall take effect thirty (30) days after enactment by Tribal Council [September 26, 2004].

(Source: WOS 2004-05, September 26, 2004, Section VI)

Chapter 5. Felony Defined

9.501 PURPOSE

This Statute is hereby enacted to define a felony.

(Source: WOS 2005-13, October 9, 2005, Section I)

9.502 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

B. "**Misdemeanor**" means a crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement in a place other than prison (such as county jail).

(Source: WOS 2005-13, October 9, 2005, Section II)

9.503 CONSTITUTION MANDATE TO DEFINE A FELONY

Within the jurisdiction of the Tribe a person shall be considered guilty of a felony if they have been convicted in a court of competent jurisdiction of:

A. A crime defined by the Tribe's criminal code as a felony or;

B. Rape or;

C. Sexual assault against an individual who has not attained the age of 16 years or;

D. Any other crime that is listed by the Major Crimes Act, Title 18, United States Code, Section 1153 paragraph A. "(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States."

Convictions of crimes in jurisdictions other than the Tribe of lesser degree than listed in Section (D) above shall be considered a Misdemeanor within the jurisdiction of the Tribe regardless of classification in the jurisdiction of the conviction.

(Source: WOS 2005-13, October 9, 2005, Section III)

9.504 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.

(Source: WOS 2005-13, October 9, 2005, Section IV)

9.505 EFFECTIVE DATE

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

(Source: WOS 2005-13, October 9, 2005, Section V)

Chapter 6. Victims Rights Act

9.601 PURPOSE

The purpose of this Statute is to protect the rights of crime victims.

(Source: WOS 2006-011, July 13, 2006, Section I)

9.602 RIGHTS OF CRIME VICTIMS

A. Rights of crime victims. A crime victim has the following rights:

1. The right to be protected from the accused.

2. The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.

3. The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

4. The right to be heard at any court or agency proceeding involving release, plea, sentencing, or any parole proceeding.

5. The right to confer with the Prosecuting Attorney in the case.

6. The right to full and timely restitution as provided in law.

7. The right to proceedings free from unreasonable delay.

8. The right to be treated with fairness and with respect for the victim's dignity and privacy.

B. Implementation of Rights.

1. In any court proceeding involving an offense against a crime victim, the Tribal Court, Tribal Prosecutor and Law Enforcement Department shall ensure that the crime victim is afforded the rights described in subsection (A).

2. The Tribal Prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (A). The crime victim or the crime victim's lawful representative, and the Tribal Prosecutor may assert the rights described in subsection (A).

3. A person accused of the crime at issue cannot obtain any form of relief under this Statute, and alleged violations of this Statute cannot form the basis of an accused person's challenge to a conviction or sentence in an appellate proceeding.

(Source: WOS 2006-011, July 13, 2006, Section II)

9.603 IMPLEMENTING REGULATIONS

The Executive and Judicial Branches of government are authorized, but not mandated, to adopt such regulations, policies or rules as they may deem necessary to implement this Statute.

(Source: WOS 2006-011, July 13, 2006, Section III)

9.604 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.

(Source: WOS 2006-011, July 13, 2006, Section IV)

9.605 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-011, July 13, 2006, Section V)

Chapter 7. Domestic Violence Protection

9.701 PURPOSE

The Little Traverse Bay Bands of Odawa Indians (LTBB) Waganakising Odawak Statute, Domestic Violence is construed to promote the following:

That violence against family members is not acceptable. It is the expectation that the criminal justice system respond to victims of domestic violence with fairness, respect, compassion, and in a prompt and effective manner. The goal of this Statute is to provide victims of domestic violence with safety and protection.

(Source: WOS 2006-014, July 25, 2006, Chapter 1-General Provisions)

9.702 AUTHORITY

Authority to regulate domestic violence in its jurisdictional territory:

1. By treaty, the LTBB has the right to exclude non-citizens as well as an inherent authority to protect its political integrity and provide for the welfare of its citizens and others who choose to live within its territory.

2. The problem of domestic violence within the boundaries of the LTBB reservation is seriously impacting the ability of the Tribe to provide for the health and well-being of its citizens and threatens the political integrity of the Tribe.

3. Domestic violence is also being perpetrated by or against persons who are not

citizens of the LTBB. These activities of non-citizens and non-Indians, who have entered into consensual relations with Tribal citizens, will be regulated under this Statute.

4. In the event that a non-Indian is accused of violating a provision of this Statute, that person shall be given a choice in the form of a written signed statement to either fully submit to the civil and criminal jurisdiction of the Tribal Court or be permanently excluded from the Reservation. Refusal to make such choice in writing shall be deemed choosing permanent exclusion. Neither submission to the jurisdiction of the Tribal Court nor exclusion shall in any way limit prosecution of federal or state charges.

(Source: WOS 2006-014, July 25, 2006, Chapter 1-General Provisions, Section 101)

9.703 DEFINITIONS

A. "**Domestic violence**" means the occurrence of one or more of the following acts by a family or household member, but does not include acts of self-defense:

1. Attempting to cause or causing physical, emotional or mental harm to another family or household member;

2. Placing a family or household member in fear of physical harm; or

3. Causing a family or household member to engage involuntarily in sexual activity by force, threat of force, or duress.

B. "**Family or household members**" include:

1. Adults or minors who are current or former spouses;

2. Adults or minors who are dating or who have dated;

3. Adults or minors who are engaged in or who have engaged in a sexual relationship;

4. Adults or minors who are related or formerly related by marriage as recognized by western or Odawa tradition;

5. Persons who have a child in common;

6. Minor children of a person in a relationship described in paragraphs (a) through (e) above;

7. Any adult or minor children who reside in the household;

8. Persons who are related by blood, adoption or marriage; and

9. Vulnerable adults in the family or household, including adults unable to protect themselves from abuse, neglect, or exploitation.

C. "**Minor**" Any unmarried person who is less then eighteen (18) years of age, and has not been emancipated by order of a court of competent jurisdiction, or a person who is eighteen (18) years of age, but remains under the continuing jurisdiction of the Court.

D. "**Domestic Violence Advocate**" means an employee of, or volunteers for a program for victims of domestic violence and/or sexual assault.

E. "**Program of intervention for perpetrators**" and/or "**offender's program**" means a specialized program that accepts court order and voluntary participants.

F. "**Program for victims of domestic violence**" means a specialized program for victims of domestic violence and their children that includes but is not limited to advocacy, shelter, crisis intervention, supportive services, referrals, and specialized knowledge and expertise of elders and medicine people.

G. "**Safety plan**" means a written or oral outline of actions to be taken by a victim of domestic violence to secure protection and support after making an assessment of the dangerousness of the situation.

H. "**Public servant**" means any law enforcement officer, dispatcher, detention guard, law enforcement supervisor or administrator, judge, court clerk, prosecutor, court administrator, juvenile presenting officer.

I. "**Protection Orders"** include but are not limited to the following:

1. Civil Ex Parte.

2. Civil After Hearing.

3. Violations may result in contempt charges:

a. Pre Adjudication Conditions of Release (Bond)

b. Post Adjudication Conditions of Release (Bond)

c. Sentencing Orders

d. Probation Orders

(Source: WOS 2006-014, July 25, 2006, Chapter 1-General Provisions, Section 102)

9.704 CRIMINAL PENALTIES AND PROCEDURES

A. "Crime involving domestic violence" defined.

The purpose of this Statute is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes are perpetrated against a family or household member, a finding of such shall trigger the application of this Statute. The crime of Domestic Violence occurs when a family or household member commits one or more of the following offenses against another family or household member:

1. Arson;

2. Assault Offenses (Battery, Aggravated Assault, Simple Assault, and Intimidation);

3. Burglary, Breaking and Entering;

4. Damage to property, if intended to harm or intimidate a family or household member;

5. Homicide Offenses (1st degree murder; 2nd degree murder, and manslaughter);

6. Kidnapping, Abduction;

7. Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);

8. Stolen Property Offenses;

9. Weapon Law Violations;

10. Disorderly Conduct;

11. Family Offenses, Non-Violent (Deprivation of Resources, Isolation, Squandering Family Resources, Failure to Support Dependent Persons);

12. Stalking;

13. Trespass of Real Property;

14. Intoxication;

15. Harassment; or

16. Habitual or Repeat Domestic Violence Offender status.

B. Violation of one of the following orders issued in accordance with the Domestic Violence is a misdemeanor, to be designated and charged as a Violation of Protection Orders:

1. An order enjoining the respondent from threatening to commit or committing acts of domestic violence against the petitioner or other family or household member;

2. An order prohibiting the respondent from harassing, annoying, telephoning, contacting, or otherwise communicating verbally or in writing with the petitioner directly or indirectly through family members, relations by marriage, friends, and co-workers;

3. An order removing and excluding the respondent from the residence of the petitioner;

4. An order requiring the respondent to stay away from the residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

5. An order granting temporary custody and child support regarding children, denying visitation or outlining specific visitation conditions and restrictions, including supervised visitation;

6. An order prohibiting the respondent from using or possessing a firearm or other weapon as specified by the court and in accordance with Title 18 USC 922;

7. An order requiring the respondent to attend domestic violence classes; and

8. An order requiring the respondent to obey Tribal, state or federal laws.

Any person granted a civil or criminal Protection Order from LTBB Tribal Court or any other court of competent jurisdiction cannot be punished for a violation of that Protection Order under this Statute. It shall not be a defense to a charge of violation of a Protection Order under this section that the victim consented to the violation by encouraging contact or a violation of the

Protection Order.

C. Penalties; enhancement of penalty for second or subsequent crime involving domestic violence; restitution.

When a defendant makes a judicial admission, pleads guilty, or has been found guilty of a crime involving domestic violence as defined by this Statute, or violation of a Protection Order, the following minimum sentencing provisions shall apply uniformly to all offenders:

1. First offense. Mandatory successful completion of an offender's program and a mandatory minimum of one year supervised Tribal Court probation, including all court-ordered and probation department administrative and rehabilitative conditions. In addition, the Court may impose jail time not to exceed one (1) year, fines not to exceed $5,000 and court costs as deemed appropriate.

2. Second offense. Mandatory successful completion of an offender's program and a mandatory minimum of one year supervised Tribal Court probation, including all court-ordered and probation department administrative and rehabilitative conditions. In addition, there shall be a mandatory minimum of forty-five (45) days in jail not to exceed one (1) year, fines not to exceed $5,000 and court costs as deemed appropriate.

3. Third or subsequent offense. Mandatory successful completion of an offender's program and a mandatory minimum of one year supervised Tribal Court probation, including all court-ordered and probation department administrative and rehabilitative conditions. In addition, there shall be a mandatory minimum of ninety (90) days in jail not to exceed one (1) year, fines not to exceed $5,000 and court costs as deemed appropriate.

4. The Court may enhance the sentence for any domestic violence offense but shall not reduce the sentence below the minimum prescribed by this Section. The Court shall consider all aggravating factors such as, but not limited to, use of weapons, level of injury, criminal history, and history of violence, as grounds to enhance any sentence under this section.

5. The Court shall order the offender to pay restitution for any medical expenses and/or damages to property.

This Section shall apply to any offense committed after the enactment of this Section, but any conviction of a crime of domestic violence committed before enactment of this Section may be considered in determining whether the sentence should be enhanced.

D. Duties of law enforcement officer to victims of domestic violence:

1. A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and others present from further violence and have a duty to arrest upon finding probable cause to believe that domestic violence has occurred. A law enforcement officer need not obtain a search warrant in order to enter a residence where s/he has probable cause to believe a crime of domestic violence is occurring or has just occurred, nor to seize property. Such reasonable means include but are not limited to:

a. Taking any lawful action necessary to provide for the safety of the victim and any family or household member;

b. Confiscating any weapon involved in the alleged domestic violence;

c. Transporting or obtaining transportation for the victim and any child to a shelter or any other place of safety;

d. Assisting the victim in removing essential personal effects;

e. Assisting the victim and any child in obtaining medical treatment, including obtaining transportation to a medical facility;

f. Giving the victim immediate and adequate notice of the rights of victims and or the remedies and services available to victims of domestic violence; and

g. Enforcing a Protection Order.

2. Provide victims written notice of services available.

E. Mandatory arrest for crimes involving domestic violence.

If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic violence, the officer must, without a warrant, arrest and charge an abuser with the appropriate crime.

F. Mandatory arrest for violations of orders for protection.

When a law enforcement officer has probable cause to believe that a respondent has violated a court Protection Orders, the officer shall, without a warrant, arrest the apparent violator.

The petitioner who is granted a Protection Orders cannot violate or be arrested for violation of her/his own Protection Orders.

G. Officials who batter, including law enforcement officers.

Law enforcement officers and public officials who are suspected of committing the crime of domestic violence shall be subject to all provisions of the Domestic Violence Statute, including mandatory arrest with probable cause, prohibitions against temporary release, and all laws involving firearms disqualification.

The provisions of this Section shall not relieve the responding officer from the duty to implement mandatory arrest, should probable cause and/or immediate victim safety indicate such action.

H. Authority of law enforcement officer to seize weapons; incident to an arrest, or in the course of securing a crime scene involving domestic violence, a law enforcement officer:

1. Shall seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime or any weapon in the immediate vicinity of the alleged commission of the offense; and

2. Shall seize a weapon that is in the plain view or which is located during a search authorized by a person entitled to consent to the search. The seizure of weapons is without regard to ownership of the weapons; weapons owned by a third party are subject to confiscation when officers conclude that the weapon was used in the commission of a crime or must be confiscated to protect law enforcement officers, victims of domestic violence, or others.

I. Immunity.

1. Any law enforcement officer shall have immunity from any liability, civil or criminal, in making arrests or exercising any other authority granted under this section when domestic violence or any crimes involving domestic violence have been committed, if the law enforcement officer acts within the scope of his/her authority.

2. Law enforcement officers shall have the same immunity with respect to participation in any court proceedings resulting from arrests made for domestic violence or any crimes involving domestic violence.

J. Conditions of pre-trial release:

1. Any person arrested for a crime of domestic violence or violation of a Protection Order shall be held without bond, pending formal arraignment for a period not to exceed 72 hours.

2. In making a decision concerning pretrial release of an offender who is arrested for, or charged with, a crime involving domestic violence the Court has the authority to decide whether to allow pre-trial release and shall review whether the offender:

a. Is a threat to the alleged victim, other family member, or household member;

b. Is a threat to public safety;

c. Is reasonably likely to appear in court; and

d. Criminal history.

3. The Tribal Court may impose the following conditions of release:

a. An order prohibiting the person from threatening to commit or committing acts of domestic violence against the alleged victim or other family or household member;

b. An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly through family, relations by marriage, friends, or co-workers;

c. An order directing the person to vacate or stay away from the home of the alleged victim and/or child and to stay away from any location where the victim is likely to be;

d. An order prohibiting the person from using or possessing a firearm or other weapon specified by the Court;

e. An order prohibiting the person from possession or consumption of alcohol or controlled substances; and

f. Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court.

4. Inform the person to be released that a violation of these conditions may result in his/her immediate arrest for noncompliance.

5. The Court shall provide a copy of the conditions to the arrested or charged person upon his/ her release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has been provided other notice of the conditions.

6. If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the Court to review the conditions.

7. The Defendant shall not be released until s/he has been advised of his/her next court date.

8. The address of the victim is confidential and shall not be released or disclosed.

K. Mandatory warrant-less arrest for violation of conditions of release.

If a law enforcement officer has probable cause to believe that a person has violated a condition of release, or probation, the officer shall, without a warrant, arrest the alleged violator, whether or not the violation was committed in the presence of the officer.

L. Prosecutor's duties in domestic violence offenses.

1. In prosecuting domestic violence crimes, the protection and safety of the victim(s) shall be controlling.

2. The Prosecutor must promptly review every report of domestic violence received from tribal police.

3. If the Prosecutor decides to issue charges the victim(s) shall be notified as soon as possible.

4. The Prosecutor shall refer all domestic violence reports to the victims advocate.

5. Plea bargaining is discouraged in domestic violence cases and shall only be used with the full understanding and cooperation of the victim(s).

6. The Prosecutor must notify the victim(s) of domestic violence that they have the rights enumerated in section 9.704 (N) of this Statute.

7. The Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving domestic violence when the prosecutor has decided to decline prosecution of the crime, to dismiss the criminal charges filed against the defendant, or to enter into a plea agreement.

M. Requirements for dismissal.

When the Prosecutor moves to dismiss charges against a defendant accused of a crime involving domestic violence, the Prosecutor must clearly state the basis for the motion.

N. Rights of victims of domestic violence; duty of prosecutor to inform victim of rights.

1. A victim of domestic violence is entitled to all rights granted to victims of crime, including but not limited to the right to:

a. Be informed of all hearing dates and continuances;

b. Provide the Court with a victim-impact statement;

c. Be present at sentencing and address the Court;

d. Recommend to the Court conditions of probation that may be necessary to ensure the safety of the victim and other family or household members;

e. The right to seek reimbursement for personal property damage and medical expenses resulting from actions of the offender;

f. The right to assistance from Tribal services;

g. The right to receive notice of all hearing dates and any adjournments; and

h. The right to address the Court in person or by written statement.

O. Pleas of no contest prohibited.

The Court shall not approve or entertain a plea of no contest.

P. Appearance or testimony of victim not required.

A victim of domestic violence or related offense shall not be required to appear or testify as a condition of proceeding with the prosecution.

Q. Confidentiality of victim's address.

The address of a victim of a crime involving domestic violence is confidential. Law enforcement, criminal justice personnel, probation and advocates shall not reveal the victim's address.

R. LTBB Law Enforcement Department procedures.

Law Enforcement shall develop departmental procedures to effectuate the mandates of this Statute and promote consistent application of its provisions.

S. Role of the Court; sentencing; probation conditions. In responding to the crime of domestic violence the Court shall:

1. Expedite trials of domestic violence criminal cases.

2. Order the defendant to report to the Probation Department for intake and rehabilitative assessment.

3. Consider whether alcohol or drugs are factors in the rehabilitation effort. If so, the Court shall impose appropriate conditions.

Upon conviction of any second or subsequent offense, the offender shall be sentenced according to the mandatory provisions of Section 9.704 (C).

T. Conditions of probation for perpetrator convicted of crime involving domestic violence; required reports by Probation Department.

1. The Court shall first consider the safety and protection of the victim of domestic violence.

2. The Court may impose any condition of probation that is necessary to ensure the safety and protection of the victim, including but not limited to:

a. Enjoining the Defendant from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

b. Prohibiting the Defendant from harassing, annoying, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly through family, relations by marriage, friends, or co-workers;

c. Requiring the Defendant to stay away from the residence, school, place of employment, or a specified place frequented (regularly by the victim and any designated family or household member;

d. Prohibiting the Defendant from possessing or consuming alcohol or controlled substances;

e. Prohibiting the Defendant from possessing a firearm or other specified weapon;

f. Directing the Defendant to surrender any weapons owned or possessed by the perpetrator;

g. Directing the Defendant to participate in and complete, to the satisfaction of the Court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment or any other program or service deemed applicable by the domestic violence program or domestic violence probation officer;

h. Directing the Defendant to pay restitution to the victim;

i. Directing the Defendant to refrain from any violations of law for the duration of his/her probation; and

j. Imposing any other condition necessary to protect the victim of domestic violence and any designated family or household member, or to rehabilitate the Defendant.

3. The Court shall consider non-compliance with any probation conditions to be a matter of contempt.

4. The Probation Department shall document and report to the Court any probation violations, regardless of where the violation occurred or under what jurisdiction any subsequent crime was adjudicated.

U. Probation violations; process for revocation; consequences.

1. The Probation Officer or any Law Enforcement Officer may, upon direct or reliable knowledge, take a Defendant into immediate custody for violation of the terms of probation.

2. If a Defendant is taken into custody for an alleged probation violation, the Probation Officer must file, as soon as practicable, a motion for a show cause hearing listing the reasons and basis for the violation.

3. The Court shall conduct a summary hearing on the motion. The burden of proof shall be a preponderance of the evidence.

4. If the Court finds that a Defendant has violated any term of probation, the Court may revoke probation, modify the terms of probation, order the Defendant to serve jail time, or may enter any other appropriate orders.

V. Juveniles.

1. Any juvenile committing domestic violence as defined in Section 9.703 shall be subject to juvenile proceedings and all other conditions outlined under the Domestic Violence Statute. Any such proceeding shall be closed.

W. Domestic Violence Firearms Violation.

1. Offense. Any person subject to any Protection Orders, shall not possess, use, sell, trade, or have immediate access to any firearm or ammunition.

2. Sentence. Any person convicted of domestic violence firearms, may be sentenced to a jail term not to exceed sixty (60) days, or a fine not to exceed one thousand dollars ($1,000.00), or to both, and costs. In addition, the Court may order forfeiture of the firearms and ammunition.

X. Denying, hindering, or delaying provision of emergency or law enforcement services to a family or household member; mandatory arrest; penalties.

It shall be a criminal offense of Hindering Emergency Services for:

1. Any person to use force, fear, or intimidation against a family or household member to prevent that family or household member from contacting law enforcement services, emergency medical services, or the 911 reporting system to secure appropriate law enforcement or emergency services assistance on behalf of him/herself or another; and

2. Any person to destroy, disable, conceal, or remove from the immediate premises any telephone or other telecommunications devices, or any motor vehicle or other means of transportation, with the intent to deny, hinder, delay, or prevent any family or household member from attempting to secure law enforcement or emergency services in a timely and expedient manner.

3. Any person who is convicted of, or pleads guilty to, subsection 1 or 2 shall be subject to a maximum confinement of 30 days in jail, a maximum fine of $500.00, or such confinement and fine, plus restitution for repairs to any damaged property or

vehicle, plus costs.

Y. Required participation; information technology system.

All Tribal criminal justice agencies, including the LTBB Tribal Court, LTBB Law Enforcement, and victim services agencies for domestic violence, shall be required to actively participate in any domestic violence tracking and/or criminal information system or technology which:

1. Its primary purpose is the coordination and collection of domestic violence offender information, Protection Orders, criminal justice response records and documents, and law enforcement reports and documentation;

2. Provides for controlled and secure access by responding agencies to domestic violence;

3. Interfaces with any habitual domestic violence offender and/or Protection Orders registry implemented under the Domestic Violence Statute;

4. Provides for the gathering and dissemination of detailed statistical information reports on offenders, victim services, and agency response; and

5. Adheres to strict policies and procedures to enhance and provide for victim confidentiality and safety, and offender accountability.

(Source: WOS 2006-014, July 25, 2006, Chapter 2, Sections 201-225)

9.705 CIVIL PROTECTION ORDERS

A. Requirements for an order.

1. Eligible petitioners:

a. Any person who is or has been a victim of domestic violence may file a petition for a Protection Orders against any person who has threatened or has

committed an act of domestic violence or;

b. Any parent, guardian, or other representative may file a petition on behalf of a child, legally incompetent person, or vulnerable adult.

2. Issuance of a Protection Order must arise from a situation of domestic violence as defined by Section 9.704 (C) of this Statute.

B. Tribal Court approved forms required for petitions and orders; required statements in petitions and orders; duty of clerk to provide petitions and clerical assistance; no fee for filing or service.

1. The LTBB Tribal Court system shall:

a. Develop and adopt uniform forms for petitions and orders

b. Provide that the title of any form or order developed under this Section, whether an emergency, emergency *ex parte*, or permanent Protection Orders, shall include the words "Protection Orders"; and

c. Provide that all petitions and forms developed and implemented under this Section address and include all requirements for compliance with full faith and credit provisions of the Violence Against Women Act, 18 USC 2265.

2. In addition to any other required information, the petition for a Protection Orders must contain a statement listing all current or pending civil or criminal actions involving one or both parties.

3. The following statements must be printed in bold-faced type and/or in capital letters on the Protection Orders:

a. "Consequences for violation of this Protection Orders include";

b. "The respondent is forbidden to enter or stay at the petitioner's residence,

even if invited to do so by the petitioner or any other person. In no event is the Protection Orders voided by any such invitation or contact initiated by the petitioner";

c. "Any person who is subject to a Protection Orders shall not possess, own, buy, sell, trade, or have immediate access to any firearm or ammunition, in violation of Section F of this Statute and Title18, United States Code, Section 922 (g) (8). Violation of firearms restrictions shall result in prosecution under Tribal and/or Federal law."

4. The Court Clerk shall provide to any person requesting a Protection Orders:

a. The form adopted pursuant to subsection 1; and

b. Clerical assistance in filling out the forms and filing the petition.

5. All Protection Orders must be issued on the form adopted in accordance with subsection 1.

6. There shall be no filing fees for petitions requesting a Protection Orders.

C. Jurisdiction.

1. The Tribal Court has jurisdiction over any actions involving Protection Orders under this Statute when a petitioner or respondent is a resident or found within the boundaries of the LTBB reservation or any act of domestic violence occurred within the boundaries of the LTBB reservation or when the Court is being asked to recognize and enforce a valid order of another court of competent jurisdiction. The Court shall construe this Section liberally to exercise maximum jurisdiction.

2. There is no minimum requirement of residency to petition for or to be granted a Protection Order.

D. Continuing duty to inform court of other proceedings; effect of other proceedings;

delay of relief prohibited; omission of petitioner's address.

1. At any hearing in a proceeding to obtain a Protection Orders, each party has a continuing duty to inform the court of each proceeding for a Protection Order, any civil litigation, each proceeding in family or juvenile court, and each criminal case involving the parties, including the case name, the file number, and the Tribe, county, and/or state, including federal proceedings, if that information is known by the party.

2. A Protection Order is in addition to and not in lieu of any other available civil or criminal proceeding. A petitioner is not barred from seeking relief because of the existence of a pending action between the parties.

3. A petitioner may omit her or his address from all documents filed with the Court. If a petitioner omits her or his address, the Petitioner must provide the Court a mailing address or, in the event the Petitioner is utilizing advocacy services, the name of an advocate that has the knowledge to be able to contact the Petitioner. If disclosure of Petitioner's address is necessary to determine jurisdiction the Court may order the disclosure to be made:

a. After receiving the Petitioner's consent;

b. Orally and in chambers, out of the presence of the respondent and a sealed record be made; or

c. After a hearing, if the Court takes into consideration the safety of the Petitioner and finds such disclosure is in the interest of justice.

E. Protection orders; modification of orders; relief of available *ex parte*; relief available after hearing; duties of the Court.

1. If it appears from a petition for a Protection Order, or a petition to modify a Protection Order, that domestic violence has occurred or a modification of a Protection Order is required, the Tribal Court may:

a. Without notice or hearing, immediately issue a Protection Order *ex parte* or modify a Protection Orders *ex parte* as it deems necessary to protect the Petitioner; or

b. Upon notice, issue a Protection Order or modify an order after a hearing, whether or not the Respondent appears;

2. The Court may grant the following relief *ex parte* or after a hearing: *ex parte*

a. Enjoin the respondent from threatening to commit or committing acts of domestic violence against the Petitioner and any designated family or household member;

b. Prohibit the Respondent from harassing, annoying, telephoning, contacting, or other communicating with the Petitioner directly or indirectly through friends, relatives, or co-workers;

c. Remove and exclude the Respondent from the residence of the Petitioner, regardless of ownership of the residence or lessee of record;

d. Order the Respondent to stay away from the residence, school, or place of employment of the Petitioner, or any specified place frequented by the Petitioner and any designated family or household member;

e. Seize and prohibit the Respondent from using or possessing a firearm or other weapon specified by the Court;

f. Order possession of the parties' residence and use of or ownership of any vehicle and other essential personal effect, regardless of the ownership, and direct the appropriate law enforcement officer to accompany the Petitioner to the residence of the parties to ensure that the Petitioner is safely restored to possession of the residence, vehicle, and other personal effects, or to supervise the Petitioner or Respondent's removal of personal belongings;

g. Prohibit the destruction, liquidation or disposal of any and all joint assets or property and any and all specific assets or property of the Petitioner;

h. Grant temporary custody of any minor children to the Petitioner, including custody to any petitioner currently residing in a shelter or safe home; and

i. Order such other relief as it deems necessary to provide for the safety and welfare of the Petitioner and any designated family or household member.

3. The Court may grant the following relief in a Protection Order or a modification of an order after notice and hearing, whether or not the respondent appears.

a. Grant the relief available in accordance with subsection 2;

b. Specify arrangements for visitation of any minor child by the respondent and require supervision of that visitation by an independent third party or deny visitation if necessary to protect the safety of the Petitioner and/or child;

c. In specifying visitation arrangements, the Court shall consider the Respondent's overall lifestyle, especially as it pertains to alcohol and other chemical use;

d. Order the Respondent to:

i. Pay any special legal fees,

ii. Pay rent or make payment on a mortgage on the Petitioner's residence and pay for the support of the Petitioner and minor child if the Respondent is found to have a duty to support the Petitioner or minor child,

iii. Reimburse the Petitioner or other person for any expenses associated with the domestic violence incident, including but not limited to medical expenses, counseling, shelter, and repair or replacement of

damaged property; and

iv. Pay any LTBB fees incurred by the Petitioner in bringing the action;

4. The Court shall:

a. Cause the order to be delivered to Tribal Law Enforcement or other appropriate person(s) and/or agency for service and entry into the Law Enforcement Information System (LEIN) system;

b. Make reasonable efforts to ensure that the Protection Order is understood by the Petitioner, and the Respondent, if present; and

c. Transmit, by the end of the next business day after the order is issued, a copy of the Protection Order to the local law enforcement agency or agencies designated by the Petitioner.

5. A Protection Order issued *ex parte* or upon notice and hearing, or a modification of a Protection Orders issued *ex parte* or upon notice and hearing, is effective until further order of the Court. If an *ex parte* order is entered, a hearing shall be scheduled within 14 days to allow the Respondent to respond to the petition. It shall be noted in bold or capital letters on the *ex parte* order:

a. Advising the Respondent that, "If a Protection Order is granted after a hearing, this *ex parte* order shall remain in effect until service is completed."

b. Advising the Respondent that, "If you fail to appear at the hearing regarding the Protection Order, the Court may issue a default judgment granting the relief requested.

6. The LTBB Law Enforcement shall provide expedited service for Protection Orders.

F. Issuance of a Protection Order after a hearing; duration of order; expiration date required.

Any Protection Order issued under this Chapter, upon notice and opportunity to appear, shall be issued for an expressed period of time based on the individual circumstances of the matter. For the purpose of Full Faith & Credit compliance and enforcement, all such orders must include an expiration date, not to exceed ninety-nine (99) years.

G. Required hearings; service; duty of court when Protection Order denied.

1. Except as otherwise provided in subsection 2, if the Court issues an *ex parte* Protection Order or a modification of an *ex parte* Protection Order and the Court provides relief pursuant to subsection 2 of section 9.705 (E), the Court shall set a date for a hearing within fourteen (14) days.

2. The Law Enforcement Department shall expedite service of a Protection Order. If the Law Enforcement Department fails to effect personal service with in three (3) days it shall notify the Court. The Court shall then order alternative service.

3. If personal service cannot be completed, the Court shall notify the Respondent by mail, at the last and best known address of the Respondent and/or Petitioner, of the date and time of the hearing for a Protection Order.

4. The Court Clerk shall be responsible for forwarding a copy of the *ex parte* order to the jail for service before the Respondent's release on any related charge(s).

H. Petitioner cannot violate their own Protection Order.

Petitioner cannot be considered by any invitation as having violated, or be subject to arrest for a violation of their own Protection Order.

I. Mutual Protection Orders prohibited.

The Court shall not grant mutual Protection Orders.

J. Court ordered and court referred mediation of cases involving domestic violence prohibited.

The Court shall not order parties into mediation or any type of counseling, alternative justice, restorative justice, peace-making, circle sentencing, traditional Odawa ceremonies, or any other mediation type of situation that would put the Petitioner in the position of dealing directly with the Respondent, even if the Petitioner has the right to refuse to participate, for resolution of the issues in a petition for a Protection Order.

K. Court costs and fees.

Fees for filing and service of process shall not be charged for any proceeding seeking only the relief provided in this Chapter.

L. Court responsibilities, notification of assistance available to victims of domestic violence.

The Court shall inform any petitioner for relief under this Chapter about any services and advocacy available without regard to the victim's employment, economic, educational, mental or physical health, social, or political status.

M. Enforcement of foreign Protection Orders.

1. Tribal Law Enforcement shall enforce any foreign Protection Order as they would enforce a Protection Order issued by the Tribal Court.

2. Law enforcement officers shall attempt to verify the existence and/or validity of any foreign Protection Order by any means available. In the event that the victim does not have a copy of the order, the officer cannot verify the order, or the copy is not clear enough to determine its validity, the officer may arrest the subject on any applicable violation of Tribal law, and shall assist the victim in obtaining verification of the order and/or explaining the procedure for obtaining a Protection Order. The law enforcement officer shall also offer other assistance as provided in Section 9.704 (D).

3. Under this section, the Court shall utilize the penalties and procedures provided in Section 9.704 for the enforcement of Protection Orders.

4. In accordance with Section 9.704 (F), any violations of a foreign Protection Orders shall be acted upon in the same manner as if the Protection Orders were issued by the LTBB Tribal Court and in accordance with the full faith and credit provisions of Title 18 USC 2265.

5. Law enforcement and criminal justice system personnel shall enter valid foreign Protection Orders within the Tribal Court.

6. Law enforcement and criminal justice system personnel shall encourage persons possessing foreign Protection Order to file the foreign order with the LTTB Tribal Court.

7. Facsimile copies which meet the requirements of Title 18, United States, Section 2265 shall be recognized as valid verification of foreign Protection Orders for the purpose of enforcement under this section.

N. Tribal registry for Protection Orders.

1. To ensure the proper and timely enforcement of all LTBB Tribal Protection Orders, and any foreign orders falling within its purview and jurisdiction, the LTBB Tribal Court shall provide for a registry that shall be a record of all Protection Orders issued by or registered with the LTBB Tribal Court. The Court Clerk shall provide the law enforcement dispatch centers with certified copies of Protection Orders within the same day of issuance.

2. The Court shall coordinate with, and ensure that any LTBB Tribal Protection Orders are submitted to any other registries, whether federal, state, Tribal, or local, for the purpose of enhancing full faith and credit enforcement of all Protection Orders, including provisions to enter the Protection Orders in the National Crime Information Center (NCIC) database.

3. The Court Clerk shall also immediately provide the dispatch centers and designated registry with certified copies and information concerning any modifications, revocations, withdrawals, and/or expired, Protection Orders.

4. The Court shall provide that information contained in the registry shall be available on a 24-hour basis to any court, law enforcement agency, or domestic violence program.

(Source: WOS 2006-014, July 25, 2006, Chapter 3, Sections 301-314)

9.706 CUSTODY, VISITATION AND MEDIATION FOR FAMILY AND CHILDREN CASES

A. Presumptions concerning custody.

In every proceeding where there is a dispute as to the custody of a child, it is not in the best interest of the child to be placed in custody with the perpetrator of domestic violence.

B. Factors in determining custody and visitation.

The Court will consider the best interest of the child in determining custody in matters of domestic violence. It is in the best interest of the child to reside with the parent who is not a perpetrator of domestic violence, in the location of that parent's choice.

C. Mediation prohibited in cases involving domestic violence.

The Court shall not order parties into mediation or any type of counseling, alternative justice, peace-making, circle sentencing, traditional Odawa ceremonies or any other mediation type of situation that would put the petitioner in the position of dealing directly with the respondent for resolution of the issues in a petition for custody, even if the petitioner has the right to refuse to participate.

(Source: WOS 2006-014, July 25, 2006, Chapter 4, Sections 401-403)

9.707 STALKING

A. Purpose.

The stalking provision of the LTBB Domestic Violence Statute is construed to promote the fact that the active stalking of another, is a basic and often primary activity used by domestic violence offenders to establish, or re-establish, control over domestic violence victims. Through the pursuit or following of the victim by the perpetrator, the risk to the victim of being physically assaulted by the stalker is greatly increased. The goal of this section is to provide safety and protection to victims, potential victims, and to set standards of behavior within the family.

1. "Credible threat" means a verbal or written threat, or a threat implied by a pattern of conduct, or combination of such verbal/written statements and conduct, either directly or through a third party, made with the intent to place the person who is the target of the threat in reasonable fear of his/her safety. The main standard for establishing a credible threat is the victim's perception of a threat to his/her safety. The second criteria will be the apparent ability of the defendant to carry out the threat, whether verbal, written, or implied through a willful pattern of conduct. The third standard is the ability to identify and relate a pattern of corroborated stalking behavior.

2. "Harass" means a knowing and willful pattern of conduct directed at a specific person, either directly or through a third party, which seriously alarms, annoys, torments, or terrorizes the person, and which serves no legitimate purpose. Harassing behavior can include but is not limited to:

a. Vandalism;

b. Annoying or threatening telephone calls;

c. Following or other violations of a Protection Order;

d. Actual Assaults;

e. Sending unwanted letters;

f. Sending unwanted electronic mail, or any other form of electronic communication;

g. Sending unwanted messages or threats through third parties;

h. Showing up at a victim's home or workplace;

i. Attempting to obtain private information about the victim through others;

j. Leaving gifts for the victim;

k. Disabling or otherwise tampering with the victim's vehicle;

l. Taking mail from the victim's mailbox;

m. Entering the victim's home or place of residence whether the victim is there or not there;

n. Parking near or driving by the victim's residence or workplace for no legitimate reason; and

o. Using agencies or institutions in a manner that constitutes a pattern of conduct consistent with retaliation or harassment, by initiating investigations, restrictions or sanctions against the victim.

3. "Pattern of conduct" means conduct which has caused the victim to suffer substantial emotional distress or fear. This course of conduct should contain a series of acts carried out by the defendant over a period of time, however short, which demonstrates a continuity of purpose (i.e., to annoy, harass, follow, etc.), and which would cause a reasonable person to suffer like emotional distress or fear.

4. "Family" means any spouse, parent, child, stepparent, stepchild, grandparent, grandchild, or significant other person or relative with whom the victim has a familial

relationship, or who resides with the victim or any other relationship as defined in LTBB Domestic Violence Statute, Section 9.703(B).

5. "Corroborating stalking conduct" means any evidence of harassing behavior, physical evidence at the scene, records, documents, letters, unsubstantiated alibis, recorded messages, police reports, prior stalking convictions, witness information, or any other information, which would indicate a willful pattern of conduct or threat.

B. Stalking; Penalties.

1. A person found guilty of stalking shall be subject to a penalty of not more than sixty (60) days in jail, a fine not to exceed $500, or both fine and imprisonment.

2. A person guilty of a second or subsequent offense, within five (5) years of the first offense, shall be subject to a penalty of not less than ninety (90) days in jail, a fine not to exceed $500, or both fine and imprisonment.

(Source: WOS 2006-014, July 25, 2006, Chapter 5, Sections 501-503)

9.708 FIREARMS DISQUALIFICATION

A. Purpose.

It shall be the purpose of this chapter to prohibit any person who has been convicted of a felony or misdemeanor offense of domestic violence/abuse, as defined under Section 102 of this Domestic Violence Statute, under Tribal, state or federal law, or any person who is subject to an Protection Order based upon a finding that the person represents a credible threat of violence to the victim, under Tribal, state or federal law, to possess, own, sell, trade, or have immediate access to a firearm.

B. Firearm possession, dealing, or access prohibited.

It shall be unlawful for any person to possess, own, sell, trade, or have immediate access to a firearm who:

1. Is subject to any court order from a court of competent jurisdiction that restrains such person from assaulting, harassing, stalking or threatening a family or household member as defined in Section 9.703(B) or engaging in any other conduct that would place a family or household member in reasonable fear of bodily injury to the household or family member, except that this paragraph shall apply only to an order that:

a. Was issued after a hearing, of which such person received actual notice and had the opportunity to participate;

b. Included a finding that such person represented or represents a credible threat to the physical safety of a household or family member; and

c. By its terms explicitly prohibits the use, attempted use or threatened use of physical force against another family or household member.

2. Has been convicted in state, federal or Tribal court of any crime involving domestic violence/abuse, as defined in Section 9.703 of this Statute, which involved the use or attempted use of physical force, or the threatened use of physical force, or the threatened use of a deadly weapon against a household or family member as defined in Section 9.703(B).

C. Penalties; forfeiture of firearms.

1. A violation of Section 9.708(B) shall constitute a misdemeanor offense and shall be punishable by not more than 90 days in jail, $500 fine, or both jail time and fine.

2. A violation of Section 9.708 shall result in the forfeiture of firearms.

(Source: WOS 2006-014, July 25, 2006, Chapter 6, Sections 601-225)

9.709 DOMESTIC VIOLENCE ADVOCATES

A. Purpose.

The Tribe recognizes that advocating for those who have been the victims of domestic violence can be a dangerous situation for the advocate because of the potential for violence on the part of the perpetrator. This Chapter makes it a crime for any person to harass, annoy or intimidate an advocate for a domestic violence victim with the intent to interfere with the rights of the victim of domestic violence to pursue any civil or criminal remedies she may have in a court of law. It also provides for an enhanced penalty for any person committing a crime of violence against an advocate because of his or her advocacy for a victim of domestic violence.

B. Harassment of a Domestic Violence Advocate; misdemeanor offense.

It shall be unlawful for any person to commit the following acts against a domestic violence advocate:

1. To harass, annoy, intimidate, make any written threat, verbal threats, or electronically communicated threat, a domestic violence advocate for the purpose of interfering with the right of any victim of domestic violence to obtain a civil protection order or pursue criminal charges against a perpetrator of domestic violence; and/or

2. To harass, annoy, intimidate, make any written threat, verbal threats, or electronically communicated threat, to a domestic violence advocate which places the advocate in apprehension of bodily injury, in retaliation for that advocate's representation of a domestic violence victim.

C. Harassment of a Domestic Violence Advocate; penalties.

Any person making a judicial admission to, pleading guilty to, or found guilty of a violation of Section 702 of this Statute shall be guilty of the misdemeanor offense of Harassment of a Domestic Violence Advocate and shall be subject up to 30 days in jail, a $250 fine or both.

(Source: WOS 2006-014, July 25, 2006, Chapter 7, Sections 701-703)

9.710 SEVERABILITY CLAUSE

If any clause, section or part of this Statute is declared invalid by the Tribal Court, such shall not render invalid the remainder thereof, but shall be confined in its operation to the offending section.

(Source: WOS 2006-014, July 25, 2006, Chapter 8, Sections 801)

9.711 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-014, July 25, 2006, Chapter 9, Sections 901)

Chapter 8. Sex Offender Notification and Registration Statute

9.801 SHORT TITLE

This Statute may be cited as the "Sex Offender Registry Statute."

(Source: WOS 2009-008, March 8, 2009, Sections I)

9.802 PURPOSE

A. The purpose of this Statute is to implement the federal Sex Offender Registration and Notification Act (SORNA), Section 1 of United States Public Law 109-248, and the accompanying sex offenses. Little Traverse Bay Bands of Odawa Indians finds that sex offenders present a risk of re-offending and that the efforts of law enforcement to protect the community, conduct investigations and to apprehend those who commit sex offenses is impaired by the lack of information available about individuals who have pled to, or have been found guilty of sex offenses.

B. This Act establishes a registry for offenses, the requirements of registration, and what crimes a person must register.

(Source: WOS 2009-008, March 8, 2009, Sections II)

9.803 DEFINITIONS

A. “Chief of Police” means the Chief of the Little Traverse Bay Bands of Odawa Indians Law Enforcement;

B. “Convicted” means an adult sex offender is “convicted” for the purposes of this Statute if the sex offender has been subject to penal consequences based on the conviction, however the conviction may be styled. This includes convictions of juveniles who are prosecuted as adults.

C. “Department” means the Little Traverse Bay Bands of Odawa Indians Law Enforcement;

D. “Employee” means, for the purposes of this Statute, an individual employed by the Little Traverse Bay Bands of Odawa Indians including Tribal Government Administration, commercial entities including the Odawa Casino Resort and ancillary enterprises and activities Independent contractors for the purpose of this Statute shall be included within the definition of “Employee”.

E. “Employer” means all departments and agencies of the Tribal Government Administration and commercial entities of the Tribe, including the Odawa Casino Resort and ancillary enterprises and activities.

F. "Immediate" and "immediately" mean within 3 business days.

G. “Imprisonment” means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a local or Tribal "jail".

H. “Indian” means a person who a member of a federally recognized Indian Tribe;

I. “Indian Tribe” means any federally recognized Tribe;

J. “Jurisdiction” means this Tribe and any other Indian Tribe that has asserted jurisdiction pursuant to section 127 of SORNA and the 50 states, the District of Columbia, the

Commonwealth of Puerto Rico, Guan, American Samoa, the Northern Mariana Islands, the United States Virgin Islands.

K. "Minor" means an individual who has not attained the age of 18 years.

L. "Non-Indian" means a person who is not a member of a federally recognized Indian Tribe;

M. "Resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

N. "Sex Offense" as used in this code is limited to those offenses contained in section 111 (5) of SORNA.

O. "Sex Offender" means a person convicted of a sex offense.

P. "Student" means a person who enrolls in or attends an educational institution owned or operated by the Tribe, including a secondary school, trade or professional school, or an institution of higher education.

Q. "Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians" means "areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

R. "Tribal Court" means the Little Traverse Bay Bands of Odawa Indians Tribal Court;

S. "Tribal Member" means a person who is enrolled Citizen of the Little Traverse Bay Bands of Odawa Indian;

T. "Tribe" means the Little Traverse Bay Bands of Odawa Indians;

U. "Visitor" means any person within the Tribe's jurisdiction who is not a resident;

(Source: WOS 2009-008, March 8, 2009, Sections III)

9.804 NOTIFICATION AND REGISTRATION REQUIREMENTS

A. In order to protect our Tribal children and create a safe environment, any person who reside on property owned by the Tribe in fee or trust, regardless of location; are employed by the Tribe, regardless of location; or who attends schools owned or operated by the Tribe; or are lodging for more than 7 day on property owned by the Tribe, in fee or trust regardless of the location; shall register within three (3) business days with the Department if they have:

1. Pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity to any Sex Offense under Waganakising Odawak Tribal Code, Title IX. Criminal Laws; or

2. Who has pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity, to any attempt, solicitation or conspiracy to commit a crime that requires or would require that person to register as a sex offender under federal law, or under the law of any state, other Indian Tribe, territory, commonwealth, foreign country or other jurisdiction.

B. Any person residing within the exterior boundaries of the Tribe's territorial jurisdiction who does not reside on property owned by the Tribe in fee or trust, regardless of location; are not employed by the Tribe, regardless of location; or who do not attend school own or operated by the Tribe; or are not lodging for more than 7 day on property owned by the Tribe in fee or trust, regardless of the location; may but are not required to register within three (3) business days with the Department if they have:

1. Pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity to any Sex Offense under Waganakising Odawak Tribal Code, Title IX. Criminal Laws; or

2. Who has pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity, to any attempt, solicitation or conspiracy to commit a crime that requires or would require that person to register as a sex offender under federal law, or

under the law of any state, other Indian Tribe, territory, commonwealth, foreign country or other jurisdiction.

(Source: WOS 2009-008, March 8, 2009, Sections IV)

9.805 OFFENSES REQUIRING REGISTRATION

The following offenses are subject to the requirements of this Statute including attempt and conspiracies:

A. Tribal Offenses: Sex Offense under Waganakising Odawak Tribal Code, Title IX. Criminal Laws.

B. Foreign Offenses within the United States jurisdiction:

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §2241 (aggravated sexual abuse),
3. 18 U.S.C. §2242 (sexual abuse),
4. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
5. 18 U.S.C. §2244 (abusive sexual contact),
6. 18 U.S.C. §2245 (offenses resulting in death),
7. 18 U.S.C. §2251 (sexual exploitation of children),
8. 18 U.S.C. §225IA (selling or buying of children),
9. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
10. 18 U.S.C. §2252A (material containing child pornography).
11. l8 U.S.C. §2252B (misleading domain names on the internet),
12. 18 U.S.C. §2252C (misleading words or digital images on the internet),
13. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States)

14. l 8 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

15. 18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity)

16. 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)

17. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and

18. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

C. Other Foreign Offenses. Any conviction for a sex offense involving any conduct which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally (or vigorously) enforced the right to a fair trial in that country during the year in which the conviction occurred.

D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. 951).

E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241) and committed by a minor who is 14 years of age or older.

F. Any Jurisdiction Offenses. Any sex offense committed in any jurisdiction that involves:

1. Any type of degree of genital, oral, or anal penetration,

2. Any sexual touching of or contact with a person's body, either directly or through the clothing,

3. Kidnapping of a minor,

4. False imprisonment of a minor,

5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,

6. Use of a minor in a sexual performance,

7. Solicitation of a minor to practices prostitution,

8. Video voyeurism of a minor as described in 18 U.S.C. §1801,

9. Possession, production, or distribution of child pornography,

10. Criminal sexual conduct that involves physical contact with a minor or the use of the inland to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,

11. Any conduct that by its nature is a sex offense against a minor, and

12. Any offense similar to those outlined in United States Code:

a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),

b. 18 U.S.C. §1801 (video voyeurism of a minor),

c. 18 U.S.C. §2241 (aggravated sexual abuse),

d. 18 U.S.C. §2242 (sexual abuse),

e. 18 U.S.C. §2244 (abusive sexual contact),

f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution),

g. l 8 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(Source: WOS 2009-008, March 8, 2009, Sections V)

9.806 LEVELS OF RISK TO THE COMMUNITY

A. Sex offenders present various "Levels of Risk" to the Tribal community. If the court of

jurisdiction has assigned a level or tier to the conviction, the person shall follow such classification. If no level or tier has been assigned to the conviction the department shall assign such level or tier based on the following classification:

Risk Assessment	**Level of Concern**
Tier I	Low risk to reoffend within the community at large
Tier II	Moderate risk to reoffend within the community at large
Tier III	High risk to reoffend within the community at large

B. A sex offender who is or should be registered shall, at a minimum, appear in person at the Department for purposes of keeping registration current in accordance with the following time frames:

1. Tier I offenses include those offenses punishable by less then one year of imprisonment. Persons convicted of such offenses must register annually for 15 years.

2. Tier II and Tier III offenses include offenses punishable by a term of imprisonment of one year or greater. Tier II sex offenders must register every six months for 25 years.

3. Tier III sex offenders have lifetime registration requirements and must register at least every 3 months.

(Source: WOS 2009-008, March 8, 2009, Sections VI)

9.807 REDUCTION IN REGISTRATION PERIODS

A. A sex offender may have their period of registration reduced as follows:

1. A Tier I offender may have their period of registration and verification reduced to 5 years if they have maintained a clean record for 10 consecutive years,

2. A Tier III offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent of an offense as a juvenile which required Tier 3 registration and they have maintained a clean record for 25 consecutive years.

B. A person has a clean record if:

1. They have not been convicted of any offense for which a maximum sentence of imprisonment for 1 year or more may be imposed,

2. They have not been convicted of any sex offense,

3. They have successfully completed, without revocation, any period of supervised release, probation, or parole, and

4. They have successfully completed an appropriate sex offender treatment program certified by the Tribal Court or by the Untied States Attorney General.

C. Petition to Tribal Court. Any person required to register as a sex offender may petition the Tribal Court for a show cause hearing to determine if a reduction in term of registration may be granted. In the petition, the petitioner shall provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or any crime related to the requirements of registration as a sex offender based upon:

D. The Tribal Court may grant a hearing if it finds that the petition is sufficient; and the person meets the eligibility requirements.

E. The Tribal Court may exempt the petitioner from the registration requirement only after a hearing on the petition in open court. The Tribal Court shall base its decision only upon a

finding by clear and convincing evidence that the petitioner meets the reduction requirements.

(Source: WOS 2009-008, March 8, 2009, Sections VII)

9.808 RELEASE OF INFORMATION, COMMUNITY NOTIFICATION AND IMMUNITY

A. The Department is authorized to release relevant and necessary information regarding sex offenders to the public when such information is reasonably necessary for protection of the Tribal community.

B. Whenever a sex offender registers or updates their information with the Department, the Department shall:

1. Immediately notify the FBI and ensure the information is updated on NSOR,
2. Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, police, whether BIA, Tribal, or FBI, Tribal Prosecutor, and Tribal Probation.
3. Immediately notify any and all other registration jurisdictions due to the sex offender's residency, school attendance, or employment, and
4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).Within seventy two (72) hours of the registration of a sex offender, the Department shall notify the individuals, groups and organizations that may be of risk by any reasonable method bases on the level of risk.

C. Community Notification. The Department shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the Tribe, the public registry website is immediately updated,

2. Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance with the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity.

D. The Department is immune from liability for damages for any discretionary decision to release relevant and necessary information.

(Source: WOS 2009-008, March 8, 2009, Sections VIII)

9.809 SEX OFFENDER REGISTRATION REQUIREMENTS

A. Duties. A sex offender who is required to register with the Department shall provide all of the information detailed as follows:

1. The date of all arrests,
2. The date of all convictions,
3. The sex offenders status of parole, probation, or supervised release,
4. The sex offender-s registration status, and
5. Any outstanding arrest warrants.
6. The sex offenders actual date of birth
7. Any other date of birth used by the sex offender
8. DNA sample, if the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS)
9. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
10. Driver's License. The Department shall obtain, and the sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.

11. Identification Cards. The Department shall obtain, and the sex offender shall provide, a photocopy of any identification card including the sex offender's Tribal enrollment card issued by any jurisdiction.

12. Passports. The Department shall obtain, and the sex offender shall provide, a photocopy of any passports used by the sex offender.

13. Immigration Documents. The Department shall obtain, and the sex offender shall provide, a photocopy of any and all immigration documents.

14. Employment. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions and the name of the sex offender-s employer,

15. The address of the sex offender's employer, and similar information related to any transient or day labor employment.

16. Finger and Palm Prints. The Department shall obtain, and the sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

17. Internet Names. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's internet related activity and any and all email addresses used by the sex offender, any and all instant Message addresses and identifiers, and any and all other designations or monikers used for self-identification in internet communications or postings, and any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

18. Name. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's name:

    a. The sex offender's full primary given name,

    b. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and

    c. Any and all ethnic or Tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not

otherwise commonly known.

19. Phone Numbers. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's telephone numbers:

a. Any and all land line telephone numbers, and

b. Any and all cellular telephone numbers.

20. Photograph. The Department shall obtain, and the sex offender shall provide, a current photograph of the sex offender.

21. Physical Description. The Department shall obtain, and the sex offender shall provide, an accurate description of the sex offender as follows:

a. A physical description,

b. A general description of the sex offender's physical appearance or characteristics. and

c. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

22. Professional Licenses. The Department shall obtain, and the sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

23. Address. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's residence:

a. The address of each residence at which the sex offender resides or will reside, and

b. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

24. School Location. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's school:

a. The address of each school where the sex offender is or will be a student,

and

b. The name of each school the sex offender is or will be a student.

25. Social Security. The Department shall obtain, and the sex offender shall provide, the following information:

a. A valid social security number for the sex offender, and

b. Any social security number the sex offender has used in the past, valid or otherwise.

26. Lodging Information. The Department shall obtain, and the sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

a. Identifying information of the temporary lodging locations including addresses and names, and

b. The dates the sex offender will be staying at each temporary lodging location.

27. Travel Abroad. In the event the sex offender will be traveling abroad for more than 7 days, the Department should consider providing this information to INTERPOL.

28. Offense Information. The Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

29. SORNA Database. The text of each provision of law mentioned in Section 4.18(A) shall be cross linked to the SORNA Database containing the text of relevant sex related laws for all jurisdictions.

30. Detailed Information. The Department shall obtain, and the sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

a. License plate numbers,

b. Registration numbers or identifiers,

c. General description of the vehicle to include color, make, model, and year,

d. Any permanent or frequent location where any covered vehicle is kept.

B. Digitization. All information obtained shall be, at a minimum, maintained by the police department or designee in digitized format.

C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the police department or designee and shall be in a form capable of electronic transmission, or otherwise electronically accessible by other jurisdictions.

D. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.

E. Notification. If any new information or change in information is obtained at an in person verification, the Tribal police shall immediately notify all other registration jurisdictions of the information or change in information.

(Source: WOS 2009-008, March 8, 2009, Sections IX)

9.810 INITIAL REGISTRATION

A. Jurisdiction of Conviction. A sex offender must initially register in the jurisdiction where the sex offender was convicted of the sex offense regardless of the sex offender's actual or intended residency.

B. Jurisdiction of Incarceration. A sex offender must register in each jurisdiction in which the sex offender is incarcerated while completing any sentence for a sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

C. Timing. A sex offender required to register with the Tribe under this code shall do so in the following timeframe:

1. If incarcerated, before release from imprisonment for the registration offense,

2. If not incarcerated, within 3 business days of sentencing for the registration offense, and

D. Duties of Tribal Police Department. The Department shall ensure the following:

1. Any sex offender incarcerated or sentenced by Tribal Court shall completes their initial registration with the Tribe,

2. Any sex offender initially registering with the Tribe is informed of their duties under SORNA and this Statute to register and such other duties under SORNA and this Statute are explained,

3. The sex offender reads and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,

4. That the sex offender is registered, and

5. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(Source: WOS 2009-008, March 8, 2009, Sections X)

9.811 REGISTRY WEBSITE

A. Website. The Tribal Police Department or designee shall use and maintain a public sex offender registry website. Any Tribal specific national website provided or approved by the SMART Office shall qualify as a public sex offender registry website under this code. The registry website shall also include links to sex offender safety and education resources.

B. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

C. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

D. Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

(Source: WOS 2009-008, March 8, 2009, Sections XI)

9.812 REQUIRED AND PROHIBITED INFORMATION

A. Required Information. The following information shall be made available to the public on the sex offender registry website:

1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,

2. All sex offenses for which the sex offender has been convicted,

3. The sex offense(s) for which the offender is currently registered,

4. The address of the sex offender's employer(s),

5. The name of the sex offender including all aliases,

6. A current photograph of the sex offender,

7. A physical description of the sex offender,

8. The residential address and, if relevant, a description of a habitual residence of the sex offender,

9. All addresses of schools attended by the sex offender, and

l0. The sex offender's vehicle license plate number along with a description of the vehicle.

B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

1. Any arrest that did not result in conviction,

2. The sex offender's social security number,

3. Any travel and immigration documents, and

4. The identity of the victim.

C. Witness Protection. For sex offenders who are under a witness protection program, the

Tribal police may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

(Source: WOS 2009-008, March 8, 2009, Sections XII)

9.813 VIOLATIONS AND PENALTIES

A. No person, required to register as a sex offender, shall knowingly fail to register as a sex offender with the Department.

B. No person, required to register as a sex offender, shall knowingly fail to update their information as a sex offender with the Department as required by Section V. B.

C. No person, required to register as a sex offender, shall knowingly fail to notify the Department of any changes of jurisdiction or the leaving of the Tribal jurisdiction.

D. No person shall knowingly furnish, or cause to be furnished, any false or misleading information to be included on the Sex Offender Registry.

E. No person shall, without prior approval of the Department, remove, alter, mutilate or destroy any notice to the Tribal community or Sex Offender Registry information.

F. A person found in violation of this Statute will be issued a civil infraction ticket to appear before the Tribal Court.

G. The Tribal Court may assess such fine and cost and other remedies as deemed appropriate, not to exceed five-thousand dollars ($5,000).

H. If a sex offender fails to register after receiving adequate notice, the Tribal Court may issue a Civil Bench Warrant for the personal appearance before the Court and may detain the person until any fines, costs or other remedies are satisfied.

I. The Tribal Court may determine if a parent or legal guardian of a sex offender that is a

minor child shall be responsible for any fines, costs or other remedies

(Source: WOS 2009-008, March 8, 2009, Sections XIII)

9.814 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.

(Source: WOS 2009-008, March 8, 2009, Sections XIV)

9.816 EFFECTIVE DATE

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

(Source: WOS 2009-008, March 8, 2009, Sections XVI)

9.817 IMPLEMENTATION

This Statute shall be implemented within 180 days from the Effective Date of this Statute.

(Source: WOS 2009-008, March 8, 2009, Sections XVII)

Chapter 9. Liquor and Tobacco License Violations Statute

9.901 SHORT TITLE

This Statute may be cited as the “License Violation Statute.”

(Source: WOS 2009-020, July 26, 2009, Sections I)

9.902 PURPOSE

The purpose of this Statute is to provide for violations of Liquor and Tobacco Licenses issued by the Liquor and Tobacco Licensing Board that may impair the issuance or renewal of a liquor or tobacco licenses or may cause such licenses to be suspended or revoked in order to protect the rights and interest of the Tribe and Tribal Citizens.

(Source: WOS 2009-020, July 26, 2009, Sections II)

9.903 DEFINITIONS

The following definitions apply in this Statute:

A. "Alcoholic Liquor" means the four varieties of liquor (alcohol, spirits, wine and beer) and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquor or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

B. **"**Board" means the Liquor and Tobacco Licensing Board.

C. "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the grater part made of natural leaf tobacco in its natural state.

D. "Licensee" means any person or entity, includes any employee or agent of the Licensee, licensed by the Tribe to sell alcohol or tobacco on Tribal trust lands.

E. **"**LTBB" or "Tribe" means the Waganakising Odawak Nation, also known as the Little Traverse Bay Bands of Odawa Indians.

F. "Person" or "Entity" means any individual, firm, partnership, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

G. "Tobacco Products" means all forms of tobacco prepared in such a manner at to be suitable for chewing or smoking including cigarettes, cigars, smoking tobacco, snuff, chewing tobacco.

H. "Tribal Court" means the Little Traverse Bay Bands of Odawa Tribal Court.

(Source: WOS 2009-020, July 26, 2009, Sections III)

9.904 LIQUOR AND TOBACCO LICENSING BOARD

This Statute is not intended to add or diminish the duties and responsibilities of the Liquor and Tobacco Licensing Board under WAGANAKISING STATUTE**,** LIQUOR and TOBACCO LICENSING BOARD STATUTE, as may be amended.

(Source: WOS 2009-020, July 26, 2009, Sections IV)

9.905 LIQUOR VIOLATIONS

Citations may be issued for the violations of the following:

A. Under the age of Twenty-one (21).

1. A licensee shall not directly, individually, or by a clerk, agent, or servant knowingly sell, furnish, or give alcoholic liquor to a person under the age of twenty-one (21) or fails to make diligent inquiry as to whether the person is of age.

2. A licensee shall not allow any person who is less than eighteen (18) years of age to sell or serve alcoholic liquor.

B. Intoxicated Persons.

1. A licensee shall not directly or indirectly, individually or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a person who is visibly intoxicated.

2. A licensee shall not allow an intoxicated person to consume alcoholic liquor on the licensed premises.

C. Hours of Sales.

1. A licensee shall not sell at retail, give away, or furnish alcoholic liquor between the following hours:

2 a.m. and 7 a.m. of any day

2. Variations:

The except as modified by an intergovernmental agreement that may apply to a specific Tribal enterprise and 4 a.m. and 7 a.m. on January 1 (New Year's Day)

D. Extended Hours.

An extended hours permit is required for an on-premises licensee to allow for the sale or consumption of alcoholic liquor at any time other than the legal hours for the sale and consumption of alcoholic liquor.

E. Sale of Adulterated or Mislabeled Liquor.

1. A licensee by himself or by his agent or employee, to sell, offer for sale, or possess any alcoholic liquor that is adulterated or misbranded or any alcoholic liquor in bottles that have been refilled.

2. Alcoholic liquor shall be deemed adulterated if it contains any liquids or other ingredients not placed there by the original manufacturer or bottler. For the purposes of this Section, alcoholic liquor shall be deemed misbranded when not plainly labeled, marked or otherwise designated.

3. Alcoholic liquor bottles shall be deemed to be refilled when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer.

F. Premises.

1. A Licensee shall not allow alcoholic liquor sold for on-premises consumption to be removed from premises.

2. A Licensee that sells wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure, provided that the licensee or the licensee's clerk, agent, or employee shall reinsert a cork so that the top of the cork is level with the lip of the bottle.

3. This section does not allow for the removal of any additional unopened bottles of wine unless the licensee is licensed off premises sales.

4. This section does not prevent a hotel from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

5. An off-premise licensee who is not licensed as an on-premise licensee shall not have open containers of alcoholic liquor on the premises.

6. An off-premise licensee who is not licensed as an on-premise licensee shall not allow the consumption of alcoholic liquor on the licensed premises.

7. An off-premise licensee shall not give bottle or can openers to purchasers and shall not open bottles or cans of alcoholic liquor for purchasers on the licensed premises.

8. An off-premise licensee shall not knowingly allow a person to consume alcoholic liquor on property owned, leased, or possessed by the licensee adjacent to the licensed premises.

G. Giving away alcoholic liquor

1. A Licensee shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.

2. Exceptions:

a. If the licensee is a hotel, the licensee may give away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.

b. Licensee may allow samplings or tastings of any alcoholic liquor for which monetary gain or other remuneration could reasonably be expected.

c. Tasting of alcoholic liquor is part of a bona fide market that is conducted for a product before it is approved for sale in this state.

d. Licensee may allow giving a sampling or tasting of alcoholic liquor to an employee of the licensee during the legal hours for consumption for the purpose

of educating the employee regarding 1 or more types of alcoholic liquor so long as the employee is at least 21 years of age.

H. Quantity of Alcohol.

1. An on-premise licensee shall not sell, offer to sell, or advertise the sale of, an unlimited quantity of alcoholic liquor at a specific price.

2. No licensee shall sell, offer to sell, or advertise the sale of, 2 or more identical drinks containing alcoholic liquor to a person for their consumption for 1 price. When 2 or more identical drinks containing alcoholic liquor are served to a person at 1 time, the price charged for the second drink shall be the same price as for the first drink.

I. Prizes, alcohol use.

A licensee shall not participate in or sponsor any contest that requires the use or consumption of alcoholic liquor or features alcoholic liquor as a prize in connection with a contest. Sponsored events that involve the purchase of alcoholic liquor for eligibility are exempt.

J. Controlled substances / drug paraphernalia.

A licensee shall not allow the sale, possession, or consumption on the licensed premises of any controlled substances which are prohibited by Tribal, State of Michigan or Federal Law.

K. Fights and Weapons.

1. A licensee shall not allow fights on or in the licensed premises, other than promotional events such as boxing, cage fights, etc. Nor shall a licensee, or the clerk, servant, agent, or employee of the licensee, allow, on the licensed premises, the annoying or molesting of customers or employees by other customers or employees.

2. A licensee shall not allow for the unlawful possession or use of firearms, knives, or other weapons on the premises.

L. Improper or no display of liquor license/permits

Licenses issued by the commission shall be signed by the licensee, shall be framed under transparent material, and shall be prominently displayed in the licensed premises.

M. Suspension of License.

1. A licensee shall not sell, offer for sale, furnish, consume, or allow the consumption of, alcoholic liquor on the licensed premises during the period that the license is suspended by the Board.

2. During the time of suspension of a license by the Board, the notice of the suspension shall be continuously posted in a conspicuous place on the licensed premises in full view of the public.

N. Cooperation with officers.

A licensee, or clerk, servant, agent or employee of the licensee, shall not hinder or obstruct a law enforcement officer or commission inspector or investigator in the course of investigating or inspecting the premises and shall not refuse, fail or neglect to cooperate with a law enforcement officer, commission inspector or investigator in the performance of his or her duties to enforce the act or commission rules.

(Source: WOS 2009-020, July 26, 2009, Sections V)

9.906 TOBACCO VIOLATIONS

A. Prohibited Places. Smoking, or carrying lighted tobacco in any form is prohibited in the following areas:

1. Public areas designated as “non-smoking”;

2. Passenger elevators;

3. Tribal Governmental Buildings;

4. Schools Buildings;

5. Child Care Centers; smoking is permitted on these premises during the time these facilities are not in operation, but the operator of the facility must inform parents or guardians that smoking on the premises may occur during these times.

6. Health Facilities; smoking is prohibited in the common and treatment areas of health facilities, including hospitals, health clinics, and doctors' offices. Patients may be permitted to smoke if the medical staff determines that this prohibition would be detrimental to treatment. Smoking areas provided in these cases must be separately ventilated to ensure that there is a smoke-free environment in other patient care and common areas.

7. Licensed nursing homes and licensed homes for the aged must adopt a policy that regulates smoking to provide patients with the option of no-smoking rooms, and restrict patient smoking to private or semiprivate rooms or designated smoking areas. Visitors and staff are permitted to smoke in designated smoking areas only. Tobacco sales are prohibited in nursing homes, except as provided for by owners. Notices must be posted for smoking and non-smoking areas.

8. Restaurants; food service establishments seating fifty (50) or more persons must reserve a seating area for a nonsmoking. All food service establishments seating fewer than fifty (50) people are not required to provide for a non-smoking section. Public areas in restaurants must be smoke-free. These areas include, but are not limited to, restrooms, coatrooms, and entrances. Public areas do not include lobbies, waiting rooms, hallways, or lounges.

B. Under the Age of Eighteen (18).

1. A person shall not sell or furnish any tobacco product to a person less than eighteen (18) years of age.

2. It is an affirmative defense that the defendant had, and continues to have in force, a written policy to prevent the sale of tobacco products to minors and enforces said policy.

3. This does not apply to the handling or transportation of a tobacco product by a person under the age of eighteen (18) under the terms of employment.

4. This does not interfere with the right of a parent or legal guardian in the rearing and management of their minor children within the bounds of their private premises.

C. Sign Posting. A person who sells tobacco products at retail shall post, in a place close to the point of sale, conspicuous to both employees and customers, a sign produced by the Department of Community Health that states: *"THE PURCHASE OF TOBACCO PRODUCTS BY A MINOR UNDER 18 YEARS OF AGE AND PROVISION OF TOBACCO PRODUCTS TO A MINOR ARE PROHIBITED BY LAW. A MINOR UNLAWFULLY PURCHASING OR USING TOBACCO PRODUCTS IS SUBJECT TO CRIMINAL PENALTIES."*

D. Internet Sales. All sales conducted through the Internet, by telephone, or in a mail-order transaction shall be prohibited.

E. Single Cigarettes. A person who sells tobacco products at retail shall not sell a cigarette separately from its package. This does not apply to tobacco specialty stores or other retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia.

F. Vending Machines Placement. Vending machines are restricted to areas that are not easily accessible to persons under the age of eighteen (18) and are within the direct visual supervision of an adult.

G Improper or no display of license/permits

Licenses issued by the commission shall be signed by the licensee, shall be framed under transparent material, and shall be prominently displayed in the licensed premises.

H. Suspension of License.

1. A licensee shall not sell, offer for sale, furnish, tobacco on the licensed premises during the period that the license is suspended by the Board.

2. During the time of suspension of a license by the Board, the notice of the suspension shall be continuously posted in a conspicuous place on the licensed premises in full view of the public.

I. Cooperation with officers.

A licensee, or clerk, servant, agent or employee of the licensee, shall not hinder or obstruct a law enforcement officer or commission inspector or investigator in the course of investigating or inspecting the premises and shall not refuse, fail or neglect to cooperate with a law enforcement officer, commission inspector or investigator in the
performance of his or her duties to enforce the act or commission rules.

(Source: WOS 2009-020, July 26, 2009, Sections VI)

9.907 RELIGIOUS FREEDOM

Nothing in this Statute shall prohibit American Indians from practicing any recognized religious ceremony, ritual or activity in accordance with their Religious Freedom.

(Source: WOS 2009-020, July 26, 2009, Sections VII)

9.908 MARKETING

A licensee shall not intentionally market for profit tobacco or tobacco productions to persons under the age of eighteen (18).

(Source: WOS 2009-020, July 26, 2009, Sections VIII)

9.909 ENFORCEMENT

A. The Tribal Law Enforcement Department is authorized to issue citations for violations of this Statute.

B. Any inspectors and/or investigators hired by the Board are authorized to issue citations of violations of this Statute.

(Source: WOS 2009-020, July 26, 2009, Sections IX)

9.910 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.

(Source: WOS 2009-020, July 26, 2009, Sections X)

9.911 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2009-020, July 26, 2009, Sections XI)

Chapter 10. Law Enforcement Department Statute

9.1001 SHORT TITLE AND PURPOSE

This Statute shall be known as the "Law Enforcement Department Statute"

(Source: WOS 2009-021, July 26, 2009, Sections I)

9.1002 PURPOSE

The Purpose of this Statute is to provide for the regulation of law enforcement through the creation of the "Tribal Law Enforcement Department" as an Executive Department to promote peace and safety.

(Source: WOS 2009-021, July 26, 2009, Sections II)

9.1003 DEFINITIONS

The definitions apply in this Statute, unless the context otherwise requires.

A. "Agreement" means the signed agreement between the "United States Secretary of the Interior and LTBB" that is a specific contract for law enforcement and provides for the Authority, Purpose, Service and Appropriations of how the department conducts business and provides law enforcement services, pursuant to provision of the Indian Self-Determination and Education Assistance Act, (25 U.S.C. 450 et seq.).

B. "Department" means the Law Enforcement Department.

C. "Director" means the Chief of the Law Enforcement Department.

D. "Firearm" means a weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.

E. "Law Enforcement" means law enforcement/ dispatch department of the Tribe.

F. "Law Enforcement Officer" means a person who is properly commissioned, deputized and authorized to enforce Tribal, Federal and State of Michigan laws.

G. "LTBB Reservation" means all lands and waters as described in the LTBB Constitution Article III (H).

H. "Tribe" or "LTBB" means the Waganakising Odawa, also known as the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2009-021, July 26, 2009, Sections III)

9.1004 CREATION OF THE DEPARTMENT

The Law Enforcement Department is hereby created within the Executive Branch to carry out the responsibilities of law enforcement within the Tribe's jurisdiction including the enforcement of criminal and civil law, both Tribal and Federal as applicable and the promotion and protection of the health, safety and welfare of the Tribe and its Tribal Citizens.

(Source: WOS 2009-021, July 26, 2009, Sections IV)

9.1005 TRIBAL LAW ENFORCEMENT DIVISION

A. The Department shall include a Law Enforcement Division to aid in the enforcement of Tribal laws and regulations concerning the protection and promotion of peace.

Primary and secondary duties of the Division include, but are not limited to:

1. Primary Duties:

a) promote and protect the peace and safety through community policing, general patrol, traffic control, and assisting other departments and agencies;

b) provide enforcement of violations of criminal law to the extent that Law Enforcement Officers are authorized through Tribal Council approved deputization, special commissions, agreements, or memoranda of understanding/agreements (MOU/MOA);

c**)** provide enforcement of violations of civil law as designated by Tribal Council.

d) provide primary responsibility for investigations, arrests, court appearances, crime prevention, evidence collection and submits incident reports

to a prosecutor for adjudication in the appropriate court of jurisdiction.

e) provide primary services such as homeland security, court officer, sex offender registry, dispatching/ criminal history and traffic enforcement.

2. Secondary Duties:

a) provide aid or assistance to other law enforcement agencies when requested by a law enforcement agency;

b) perform and participate in emergency management activities when requested by the Executive or designee;

c) to take necessary and appropriate actions to enforce violations of civil or criminal law whether or not directly related to natural resource protection when in the course of carrying out their primary duties its officers encounter situations requiring law enforcement intervention to protect the public safety;

d) participate in homeland security activities as requested by the Executive or designee;

e) request aid of other law enforcement agencies when prudent to do so to address situations encountered in the course of carrying out primary duties.

B. Tribal Law Enforcement Officers. The Department shall employ Tribal Law Enforcement Officer(s) to carry out the duties and functions of the Division. Law Enforcement Officers of LTBB possess all of the privileges, powers and immunities of any such officer.

1. Oath of Office.

Officers shall be sworn in by a Tribal judge to support, uphold, and defend the Constitution of the Tribe and to enforce the laws and regulations of the Tribe in

accordance with this Statute.

2. Firearms.

Officers are authorized to carry firearms in the performance of their duties and are required to qualify semi-annually at a score of 80% (240) or better under the direction of a certified firearms instructor in accordance with Federal Law Enforcement Training Center firearm standards.

C. Authorities. Officers shall have the following authority in their enforcement of criminal and civil violations within the jurisdiction of the Tribe:

1. Execute any process for enforcement of criminal or designated civil Statutes;

2. Issue citations for civil violations;

3. Execute warrants issued for the arrest of violators;

4. Arrest, without warrant, any person committing a criminal violation in his/her presence;

5. Make arrests and issue citations for any violation within LTBB jurisdiction when in the course of carrying out their primary duties they encounter people with outstanding warrants, or who commit violations in their presence.

6. Serve subpoenas or other legal documents;

7. Execute searches with or without a warrant as allowable under law;

8. Apprehension of Suspected Violators

9. Use force only to a level which is necessary, reasonable and appropriate to achieve the desired legal objective or to protect himself/herself or others from an immediate threat of death or serious physical injury using the force continuum.

d) All reported use of force incidents shall be reviewed by the appropriate supervisor to determine whether:

i. any laws or departmental rules, policies were violated. All incidents involving the use of force that causes death shall be subject to both an administrative and criminal investigation.

ii. the relevant rule or policy was clearly understandable and effective to cover the situation.

iii. training is currently adequate.

D. Regulations. The Department shall have in place and adhere to written enforcement regulations as approved by Tribal Council.

E. Agreements. The Department shall abide by all terms and conditions set out in the Agreement between the United States Secretary of Interior and the Tribe.

F. Handbook. The Department and Law Enforcement Division shall abide by all processes and procedures set out in the United States Department of Interior, Bureau of Indian Affairs, Justice Services Handbook, July 1, 2008 or as amended.

(Source: WOS 2009-021, July 26, 2009, Sections V)

9.1006 CRIMINAL INVESTIGATIONS

The Chief of Police shall be notified of any and all criminal investigation that potential may involve violations of tribal law, including investigations by federal, state or local authorities.

(Source: WOS 2009-021, July 26, 2009, Sections VI)

9.1007 SOVEREIGN IMMUNITY

Nothing in this Statute shall forfeit Sovereign Immunity and personal liability immunity offered in any other Statute or Resolution for law enforcement employees while acting within the scope

of their authority.

(Source: WOS 2009-021, July 26, 2009, Sections VII)

9.1008 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-021, July 26, 2009, Sections VIII)

9.1009 EFFECTIVE DATE

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

(Source: WOS 2009-021, July 26, 2009, Sections IX)

TITLE X. LAND USE AND BUILDING

Chapter 1. Handicap Accessible New Construction

IT IS RESOLVED THAT all new construction of the Tribe be designed and constructed in a manner that is handicap accessible whenever required by law and even if not required by law wherever physically and financially feasible.

(Source: WOS 1995006, April 9, 1995)

Chapter 2. Authorization of Traditional Activities on Osborne Road Property

The LTBB Tribal Council supports and authorizes traditional Indian activities on the tribal land located on Osborne Rd. Groups which have scheduled activities on the land may set the criteria for participation on events they hold. Groups intending to use the property must contact the tribal office which shall maintain a calendar of scheduled events. Scheduling guidelines shall be developed as necessary and these guidelines must be presented to and approved by the Tribal Council.

(Source: WOS 1995014, September 24, 1995)

Repealed Chapter 3. Zoning

Repealed 10.301 SHORT TITLE AND PURPOSE

A. Short Title. This Statute may be cited as the "Zoning Statute."

B. Purpose. The purpose of this Statute is to provide for the regulation of land use; the structures, appurtenances, additions and decorations which may accompany them; and other developmental characteristics which may have an effect upon the public health, safety, and general welfare.

C. Repeal of Prior Statute. This Statute repeals and replaces the Land Use Regulation enacted on June 22, 1997, being Waganakising Odawak Statute 1997007.

Repealed 10.302 EXISTING USES OF LAND AND BUILDINGS

The lawful use of any dwelling, building or structure, and of land or premises as existing and lawful at the time of enactment of this Statute may be continued at the discretion of the owner thereof even though such use does not conform with the provisions of this Statute.

(Source: WOS 2001-13, October 21, 2001, Section II)

Repealed 10.303 DEFINITIONS

The following definitions of word use shall apply:

A. Words used in the present tense shall include the future.

B. Words used in the singular number shall include the plural number and the plural the singular.

C. The word "**shall**" is mandatory and not discretionary.

D. The word "**may**" is permissive.

E. The word "**lot**" shall include the words "piece", "parcel" and "plot".

F. The phrase "**used for**" shall include the phrases "maintained for" and "occupied for".

G. The phrase "**designed for**" shall include the phrases "arranged for" and "intended for".

H. All "**measured distances**" shall be to nearest foot. If a fraction is one-half foot (½') or less, the next full number below shall be taken.

I. The words "**dwelling**", "**family dwelling**", "**2 family dwelling**", "**multiple dwelling**". "**building**", "**house**", "**premises**", or "**lot**" as used in this Statute shall be construed as if followed by the words "or any part thereof".

J. "**Accessory Building**" An accessory building is a subordinate building situated upon the same lot as the main building the use of which is incidental to the main building.

K. "**Accessory Use**" An accessory use is a use subordinate and customarily incidental to the main use on a lot.

L. "**Aircraft Landing Area**" Any premises which are used or made available for the landing or takeoff of aircraft, including premises which are classified as a restricted landing area as contemplated by the rules and regulations promulgated by the Federal Aeronautics Administration, and including any appurtenant areas which are used or suitable for use for

buildings or facilities incidental to aircraft services.

M. "**Alley**" A narrow thoroughfare upon which the rear of premises generally abut or upon which service entrances of buildings abut, and which is not generally used as a thoroughfare by both pedestrians and vehicles, or which is not used for general traffic circulation, or which is not in excess of 30 feet in width at its intersection with a street.

N. "**Alternations**" Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to here-in as "altered" or "reconstructed".

O. "**Apartments**" A suite of rooms or a room in a multiple-family building arranged and intended for a place or residence of a single-family or group of individuals living together as a single house keeping unit.

P. "**Basement**" That portion of a building which is partly or wholly below grade but is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Q. "**Bed and Breakfast**" A bed and breakfast facility is a dwelling licensed to serve over night guests in a residence for a fee. Such a facility shall be owner occupied with the owner operating the facility as proprietor.

R. "**Building**" Any structure, either temporary or permanent, having a room supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

S. "**Building Height**" The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between saves and ridge for gable, hid and gambrel roofs. Where a building height is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

T. "**Building Existing**" An "existing" building is any building actually constructed or the construction of which is started previous to the effective date of this Statute; provided that the construction of any such building continues uninterruptedly and is completed within 6 months from such date.

U. "**Building Line**" A line formed by the face of the building. A minimum building line is the same as the front setback line.

V. "**Club**" A non profit organization of persons for the promulgation of culture, sports, arts, sciences, literature, politics or the like.

W. "**Comprehensive Plan**" The Comprehensive Plan for the Little Traverse Bay Bands of Odawa Indians as may be amended or updated, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and other physical development features.

X. "**Convalescent or Nursing Home**" A structure with sleeping rooms where persons are housed and furnished with meals, nursing and medical care.

Y. "**Development**" The construction of a new building or other structure, on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

Z. "**District**" Any section within the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians Reservation, or otherwise within LTBB's jurisdiction, where the zoning regulations are uniform under the laws of LTBB.

AA. "**Drive-In**" A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

BB. "**Dwelling**" A building or portion thereof designed or used for residential occupancy, but not including house trailers, mobile homes, hotels, motels, boarding and lodging houses, tourist courts or tourist homes.

CC. "**Dwelling, Multiple**" A building designed for or occupied by three or more families.

DD. "**Dwelling, Single-Family**" A building designed for or occupied by one family.

EE. "**Dwelling, Two-Family**" A building designed for or occupied by two families.

FF. "**Erected**" Built, constructed, altered, reconstructed, moved upon, or any "physical" operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

GG. "**Essential Services**" The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead; gas, electrical, steam, fuel or water transmission or distribution system, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

HH. "**Excavation**" Any breaking of ground, except common household gardening, ground care, and sail tilling related to agricultural production or tree plantations.

II. "**Family**" One or two persons or parents, with their direct lineal descendants, dependents, and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together as a single housekeeping unit.

JJ. "**Farm**" A "farm" includes structures, facilities and lands for carrying on of agricultural activity or the raising of livestock or small animals as a source of income.

KK. "**Floor Area, Usable**" For the purpose of computing parking requirements, usable floor area is that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons clients or customers. Floor area used or intended to be for the storage or processing of merchandise, hallways or for utilities or sanitary facilities shall be excluded for the computation of usable floor area.

LL. "**Garage, Private**" Accessory building space designed or used for the storage of motor-driven vehicles.

MM. "**Gasoline Service Station**" A place primarily operated and designed for the dispensing, sale or offering for sale of motor fuels and other petroleum products, which may include a repair garage, together with the sale of accessories. Such site may also include a convenience store and/or restaurant if appropriate permits are obtained.

NN. "**Grade**" For the purpose of regulating the number of stories and the height of buildings, the building grade shall be the level of the ground adjacent to the walls of the building. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

OO. "**Greenbelt, Screening**" A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Statute.

PP. "**Greenbelt, Shoreline**" When bordering bodies of water, an undisturbed area of land paralleling the water's edge to a depth of the required zoning setback distance if not otherwise stipulated, which is retained in a natural condition and is essentially void of any structural improvements. Beaches and/or vegetated areas shall be defined as shoreline greenbelts.

QQ. "**Home Occupation**" Where permitted in a district, a business use of a residential premise by the occupant that may be carried on in accordance with the restrictions contained in this Statute and other applicable law or regulation.

RR. "**Hotel**" See definition "Motel, Motor Inn or Hotel".

SS. "**Junk / Salvage Yard**" An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap and other metals, paper, rags, rubber tires, and bottles. A "junk/salvage" yard includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established

entirely within enclosed buildings.

TT. "**Kennel, Commercial**" A dwelling unit or a nonresidential building, structure, parcel of land or portion thereof in which (3) three or more dogs, cats or other household domestic animals are maintained, boarded, bred, cared for or kept for the purpose of sale, or temporary boarding but not including veterinary care or treatment.

UU. "**Loading Space**" An off-street space for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

VV. "**Lot Coverage**" That portion of the lot occupied by main and accessory buildings.

WW. "**Lot Depth**" The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

XX. "**Lot Lines**"

1. Front lot line: is that line which creates the abutting street right of way line (in the case of a corner lot the front line shall be that line which the front of the house faces).

2. Rear lot line: that line which is opposite the front line.

3. Side lot line: any lot line other than the front or rear lot line.

YY. "**Lot of Record**" A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of the Bureau of Indian Affairs; or a parcel of land, the deed of which was recorded in the office of the Register of Deeds of the Bureau of Indian Affairs.

ZZ. "**Lot Width**" Lot width is the distance from one side lot line to the other side lot line measured at the minimum building setback permitted in this Statute.

AAA. "**Lot, Zoning**" A contiguous tract of land which at the time of filing for a building and zoning permit is designated by its owner or developer as a tract to be used, developed or built

upon as a unit, under simple ownership or control. A zoning lot may not coincide with a lot of record, but may include one or more lots of record.

BBB. "**Main Building**" A building containing the principal use of the lot upon which it is situated.

CCC. "**Master Plan**" See Comprehensive Plan.

DDD. "**Mobile Home**" Any structure designed and pre-manufactured as a complete and transportable housing unit to be used as a place of residence for one family. Mobile homes are structures legally transportable over a highway, but the term shall not include licensed travel trailers. The term "mobile homes" shall include double wide mobile homes, but shall exclude modular homes or pre-manufactured homes which are installed with a permanent foundation and which do not come with a steel frame attached.

EEE. "**Mobile Home-Permanent**" Mobile Homes shall be considered permanent dwellings when the unit is mounted on a continuous masonry foundation or on a foundation of solid masonry pilings as specified elsewhere in this Statute. Further, the permanent mobile home shall meet the minimum floor area requirements for one-family dwellings, be securely anchored to the ground, and be taxable as real estate if such taxes be assessed.

FFF. "**Mobile Home-Temporary**" Any unit other than a travel trailer or permanent mobile home having no foundation; but which may be equipped with wheels or other devices for transporting from place to place.

GGG. "**Mobile Home Park**" A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, sheet, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

HHH. "**Motel, Motor Inn or Hotel**" A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient

occupancy. A hotel or motor inn may contain a restaurant, cocktail lounge and conference center facilities.

III. "**Non-Conforming Use**" A building, structure or use of land lawfully existing at the time of enactment of this Statute, and which does not conform to the regulations of the District or Zone which it is situated.

JJJ. "**Nuisance**" The word "nuisance" shall be held to embrace whatever is dangerous to human life or detrimental to health; or any dwelling or building which is over-crowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use; or whatever renders the air or human food or drink unwholesome.

KKK. "**Nursery, Plant Materials**" A space, building or structure or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits, vegetables, gifts, lawn furniture and gardening or farm equipment.

LLL. "**Official Map**" A map prepared by or in consultation with the Zoning Administrator and the Planning Department, and approved by the Tribal Council, that depicts LTBB's reservation and delineates the land use districts defined and located by the Tribal Council under this Statute.

MMM. "**Off Street Parking Lot**" An area of definite length and width exclusive of drives, aisles or entrances giving access thereto and fully accessible for the storage or parking of permitted vehicles.

NNN. "**Parking Space**" A parking space is an accessible either garage or surfaced area, not less than 10 feet in width and 20 feet in length, exclusive of area required for ingress or egress, which can be used at all times for parking a motor vehicle.

OOO. "**Person**" An individual, partnership, association, trust or corporation or any other legal entity or combination thereof.

PPP. "**Planned Unit Development (PUD)**" A residential or commercial development guided

by a master design plan in which one or more of the zoning or subdivision regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with guidelines shown herein.

QQQ. "**Principle Use**" The primary or chief purpose for which the lot is used.

RRR. "**Public Utility**" A public utility is any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation, to the public, electricity, gas, steam, communication, transportation, drainage or water.

SSS. "**Recreational Vehicle**" A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motive power or a vehicle mounted on or drawn by another vehicle.

TTT. "**Recreation Camps, Lodges and Resorts**" A recreational facility normally operated for gain, which provides overnight lodging and recreational activities including but not limited to golf, skiing, dude ranching, recreational farming, snowmobiling, pack trips, and boating.

UUU. "**Restaurant**" A commercial establishment whose primary business is the preparation of food for immediate consumption, either on site or carry-out.

VVV. "**Retail Store**" Commercial establishment for public retail sale of goods, related services, food or beverage, including but not limited to convenience stores. A retail store may sell perishable items, tobacco products or alcoholic beverages if applicable permits are obtained.

WWW. "**Roadside Stand**" An accessory and temporary farm structure operated for the purpose of selling local agricultural products raised or produced by the proprietor and his employees on the same premises.

XXX. "**Room**" For the purpose of determining lot area requirements and density. A room is a living room, dining room, bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage.

YYY. "**Service Based Businesses**" Commercial establishments who primarily provide services, and limited related retail items.

ZZZ. "**Setback**" The distance required to obtain front, side or rear yard open space provisions of this Statute.

AAAA. "**Shopping Center**" A group, cluster or complex of retail stores within a single architectural plan, and occupying a site under single ownership, management or control. At least three (3) retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

BBBB. "**Sign, Accessory**" A sign which is accessory to the principal use of the premises and located on the same lot as the principal use.

CCCC. "**Story**" That part of a building, except a mezzanine and/or basement, between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the grade level of the adjoining ground.

DDDD. "**Story, Half**" An uppermost story lying-under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purposes of this Statute the useable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

EEEE. "**Street**" A public dedicated right-of-way, affording the principal means of access to abutting property (excludes alleys).

FFFF. "**Structure**" Anything constructed or erected, the use of which requires location on the ground or attachment something having location on the ground.

GGGG. "**Temporary Use of Building**" A use or building permitted to exist during periods of construction of the main building or use, or for special events.

HHHH. "**Travel Trailer and Camper**" A trailer coach, motor home, tent camper, de-

mountable camper or unit designed as a vacation unit for short-term seasonal occupancy, which measures eight (8) feet or less in width and designed to be operated on highways.

IIII. "**Use, Reasonable**" A proposed use is "reasonable" when it would be harmonious, compatible, appropriate, would not impinge unreasonably on the value or use of nearby properties, and would not impair sound communal development as and where proposed to be established. An existing use is "reasonable" when it is harmonious, compatible, and appropriate as and where established, does not impinge unreasonably on the value or use of nearby properties, and does not impair sound communal development. Uses which are not "reasonable" are "unreasonable." No use shall be deemed "reasonable" if its establishment or actual conduct is unlawful under the statutory or common law of the Little Traverse Bay Bands of Odawa Indians.

JJJJ. "**Yard**" A yard is an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a yard shall be the minimum horizontal distance between the lot lines and the building or structure.

1. Required Yard: That portion of any lot on which the erection of a main building is prohibited.

2. Front Yard: A yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line.

3. Rear Yard: A yard on the same lot with a building between the rear line of the building and the rear lot line and extending from one side lot line to the other side lot line.

4. Side Yard: A yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

(Source: WOS 2001-13, October 21, 2001, Section III)

Repealed 10.304 CLASSIFICATION AND DESCRIPTION OF LAND USE

DISTRICTS

To achieve the aims and purposes set forth above, any lands under the jurisdiction of the Little Traverse Bay Bands of Odawa Indians are hereby divided into the following six districts:

A. Low Density / Suburban Residential. The purpose of this district is to maintain certain areas within the Tribe's zoning jurisdiction as primarily agricultural and sparsely developed. Low Density is defined as no more than one dwelling unit per every ten acres of land.

B. Medium Density Cluster Residential. It is the purpose of the Medium Density Cluster Residential District to provide for the most efficient use of limited residential land use resources while also providing open space, access to forested and riparian areas, and recreational opportunities for residents. This district has among its goals the concentration of residential areas within a larger parcel; establishment of areas for recreation, natural preservation, cultural use, and scenic views; and designation of nearby areas for multiple light density commercial uses tailored to the needs of the development. In this context, Medium Density is defined as the range of one dwelling unit per every two to three acres of land.

1. Uses permitted by right. The following uses are permitted by right, and require only a zoning permit and review by the Zoning Administrator for height and bulk requirements:

a. Detached single family homes, meeting the BOCA standards for construction, of not less than 960 square feet in area, not including porches and appurtenances.

b. Duplex-type two family homes, meeting the BOCA standards for construction, of not less 760 square feet in area, not including porches and appurtenances.

c. Community centers and other quasi-governmental buildings, directly related in purpose to the development and residents thereof.

d. Sweat lodges and other traditional structures of a transient use.

e. Home Occupations that do not involve signs, customers coming to the residence, or any outdoor activity not typical in a residential area.

2. Uses permitted by special review. The following uses are permitted as a general rule, but only after a review by the Zoning Administrator to ensure compatibility with existing uses and limitations on any detrimental effects from the proposed use.

a. Business and industry located in designated areas.

b. Planned or mixed use developments.

c. Government buildings and operations.

d. Churches.

e. Recreational facilities.

f. Farming.

g. Home occupations that involve a sign, customers coming to the residence, or any outdoor activity not typical in a residential area.

h. Other similar uses consistent with the management objectives and purposes set forth in this Section.

3. Lot, setback, and other dimensional requirements. Since it is the intent of this district to promote compact, yet secluded residential development, the dimensional requirements in this section have been selected to fulfill these contradictory elements in the most feasible manner.

a. Minimum overall development size is 20 acres.

b. Minimum individual lot size is 17,000 square feet. This assumes an

overall density of not more than .5 dwelling units per acre.

c. Minimum front yard (setback) is 5 feet.

d. Minimum front yard setback is 75 feet.

e. Minimum side yard clearance is 10 feet.

f. Minimum rear yard setback is 35 feet.

g. Minimum lot width when abutting a residential street is 75 feet.

h. Maximum building height is two stories or 35 feet, consistent with equipment capabilities of local fire fighting agencies.

i. One accessory building is permitted, with an area not to exceed 1000 square feet, or one half the dwelling unit size, whichever is less. The sidewall of said accessory building shall not exceed 10 feet in height. Garages for the storage of automobiles are considered accessory buildings. Accessory buildings are not permitted in the required yard set back area.

j. Land within the right-of-way of public roads shall be included in all density calculations.

4. General Requirements.

a. Public water and sewerage facilities shall be available to serve the cluster subdivision.

b. Common "open space" shall not be less than fifteen percent (15%) of the gross acreage of any tract submitted for cluster subdivision.

c. A maximum of fifty percent (50%) of the required open space may be steep slopes, streams, ponds, watercourse, and flood plain.

d. The land derived from reduction of lot sizes shall be provided and maintained as "open space", "traditional areas" or "recreational areas".

e. Lots shall not be further subdivided and the Record Plat shall so indicate.

f. All lots shall be designed and located to minimize potential environmental degradation of the natural resources.

g. Access arrangements to open spaces shall be carefully designed and located to enable perpetual maintenance and accessibility.

h. No lot shall be created or designed in which the depth is more than 5 times the width.

i. The maximum coverage of any lot by impermeable surfaces, including structures, pavement, and sidewalks, shall be 25%.

C. Multi-Family / Mixed Residential. The purpose of this district is to provide an area for multi-family apartment buildings, single family and duplex dwelling units within the same neighborhood.

D. Forest / Recreational / Conservation. The purpose of these districts is to preserve lands for hunting, gathering, recreation, and the conservation of plants, animals and general genetic diversity. There shall be no dwelling units or commercial structures or development within this district. Only Tribal governmental developments consistent with the purposes of this district with minimal environmental impact, such as small biological services buildings, trails and minimal roads, are permitted in these districts.

E. Commercial. The purpose of this district is to provide sites for the development of Tribal commercial enterprises, and other businesses owned by tribal members or others when the Tribal Council determines through official action that the location of such non-member businesses within this district is in the best interests of the Tribe.

F. Governmental Ceremonial / Outdoor Assembly. The purpose of this district is to provide locations for governmental administration and services, Tribal ceremonies and gatherings. Permissible structures in this district shall include buildings to house Tribal government and administration, health, education and welfare. The development of permanent outdoor seating, amphitheaters and structures used for ceremonial purposes shall also be permissible in this district under the direction and approval of the Tribal Council.

(Source: WOS 2001-13, October 21, 2001, Section IV; Section 4.02(3)(d) amended by WOS 2005-08, July, 10, 2005)

Repealed 10.305 BOUNDARIES OF LAND USE DISTRICTS

The boundaries of specific districts will be determined by the Tribal Council, and will be published on the Official Map.

(Source: WOS 2001-13, October 21, 2001, Section V)

Repealed 10.306 ALLOWED BY RIGHT IN ALL DISTRICTS

Traditional ceremonial and outdoor structures utilized in traditional ceremonial and outdoor gatherings and for the purpose of siting traditional communal structures such as sweat lodges are allowed by right in all districts on members' own leasehold estates or fee lands. These structures are not to be utilized as permanent dwelling units. Their erection may be permanent, as long as occupancy is of a temporary nature for a specific, traditional purpose.

(Source: WOS 2001-13, October 21, 2001, Section VI)

Repealed 10.307 ADMINISTRATION AND VIOLATIONS

A. The Zoning Administrator shall be hired or assigned by the Tribal Administrator.

B. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Statute.

C. The Zoning Administrator shall under no circumstances be permitted to make changes to this Statute or to vary the terms of this Statute in carrying out his/her duties as Zoning Administrator. Any and all modifications to this Statute shall be approved by the Tribal Council prior to their taking effect.

D. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Statute are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.

E. Other Duties. The Zoning Administrator, and such deputies or assistants as are assigned shall enforce this Statute and any subsequent zoning regulations adopted by the Tribe and in addition thereto, and in furtherance of such authority, shall:

1. Register all nonconforming uses when they are identified.

2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Statute.

3. Issue violation notices that require compliance within ten (10) days, and advise suspected violators of right of appeal.

4. Require that all construction or work of any type be stopped when such work is not in compliance with this Statute.

5. Forward, to the Tribal Council, applications for amendments to the Zoning Statute text or map and special uses.

6. Forward, to the Zoning Board, applications for appeals and variances.

7. Forward, to the Zoning Board, applications for temporary buildings, structures and uses of land.

8. Review all cases of encroachment into required yards.

9. Interpret the Zoning Regulations when questions arise, subject to appeal and review by the Zoning Board if requested.

10. Determine which uses, though not contained by name in a zoning district list of permitted uses, are of the same general character and permit their establishment.

11. Initiate an examination of the administrative record of variances and make a report to the Zoning Board and Tribal Council not less than once a year.

12. Maintain permanent and current records of this Statute, including but not limited to maps, amendments, variances, conditional uses, and interim use permits.

13. Receive, file and forward all applications for amendments, variances, conditional uses, interim uses, or other matters to the designated official bodies.

14. Issue citations in the name of the Tribe to prevent, to restrain, to correct, or to abate a violation or threatened violation.

15. Provide and maintain public information relative to matters arising out of this Statute.

16. Conduct inspections of land, buildings, or structures at reasonable times, determine compliance with and enforce the provisions of this Statute.

17. Issue permits as required by this Statute.

(Source: WOS 2001-13, October 21, 2001, Section VII)

Repealed 10.308 ZONING PERMIT

A. Before proceeding with the erection, alteration, repair, moving, or removing of any building or part thereof, an owner or his authorized agent shall obtain a zoning permit from the Zoning Administrator. The applicant for a zoning permit must file with his request a set of plans and written specifications sufficient to clearly and fully indicate the nature of the contemplated

work and the kind and quality of materials to be used therein, together with an estimated cost. Drawings shall clearly indicate the size of structural members, walls and openings, the position of the building on the site with reference to property and street lines and adjacent buildings, and such other information as may be necessary to provide for the enforcement of these regulations. It shall be the duty of all lot owners and/or lessees to have accurately located all corners and boundaries of their property prior to building thereon.

B. A record of such applications and plans shall be kept in the office of the Zoning Administrator for such period of time as the Tribal Council deems necessary.

C. When the plans submitted have been found to conform with the requirements of this Statute, the Zoning Administrator shall issue a zoning permit. He shall inform the applicant that this zoning permit does not do away with the necessity for permits showing conformity with the Building Code, and other requirements of the Little Traverse Bay Bands of Odawa Indians, and that no construction shall be commenced until these other legal requirements have been fully met.

D. The Zoning Administrator shall inspect the building during construction and shall make a final inspection of all buildings after completion, before occupancy begins, upon receiving notice from the owner, contractor or his/her agent that said building is ready for such final inspection.

E. Use variances can only be granted by the Tribal Council. Dimension variances that do not exceed established limits by over 10% may be granted at the discretion of the Zoning Administrator if such variance would not negatively impact the interests of the tribe as described in this Statute. All other dimension variances can only be granted by the Zoning Board.

(Source: WOS 2001-13, October 21, 2001, Section VIII)

Repealed 10.309 ZONING BOUNDARIES

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of street rights-of-way, water courses, ridges or rim rocks, or other readily recognizable or identifiable natural resources, or the extension of such lines.

(Source: WOS 2001-13, October 21, 2001, Section IX)

Repealed 10.310 SITE PLANS AND ENERGY CONSERVATION GUIDELINES

A. Where required, site plans shall be prepared for submission to the Zoning Board. Contained on the site plan shall be scale drawings which locate buildings, streets, driveways, parking areas, utilities, power lines, landscaping, excavation, water wells, irrigation facilities, and all other physical structures or uses which physically change the land. Buildings and other improvements shall be located to minimize disturbance to existing natural land forms, trees, shrubs and other natural vegetation. For temporary uses, such as surface mining, an additional site plan shall accompany the application depicting the land reclamation plan.

B. Where practical, building construction, including homes, shall be designed and located to optimize energy conservation through solar access techniques. Consideration should be given to building orientation, window usage, landscaping, overhangs, shading devices, and use of skylights to provide natural lighting and heating.

(Source: WOS 2001-13, October 21, 2001, Section X)

Repealed 10.311 COMMUNITY, SUBDIVISION AND HOMESITE DEVELOPMENT POLICY

The following Sections are intended to implement in part the following tribal policies: (1) Ensuring the orderly development of the Reservation. (2) Providing lands for tribal member homes.

A. Community, subdivision and Rural Housing Development Areas.

1. Development plans for community, subdivision, and rural housing areas established on the official zoning map shall be developed to provide homesites for tribal members on an orderly basis. The purposes of these plans are to encourage the orderly and efficient use of all Reservation lands; to protect public health and safety by controlling road and utility construction; to encourage design which compliments the Reservation's appearance and livability; to minimize conflicts between different land

uses; to encourage cost-effective development conducive to energy efficiency in conservation; and to conserve range and agricultural lands.

2. All community, subdivision and rural housing plans shall be approved by the Tribal Council. Construction or development in accordance with an approved plan shall be a permitted use in the applicable zone.

3. Development plans may be required to include a firebreak area around the exterior boundaries of the planned area.

4. Subdivision and community names and street names shall be included in the plan to be approved by the Tribal Council.

5. Plans submitted to the Tribal Council shall include survey data and shall be shown on a scale drawing which identifies all streets, easements, lots, utility lines and lot sizes.

6. Submitted plans may include conditions relating to housing construction standards and conditions including color and height limitations needed to protect the Reservation's scenic resources, other requirements, controls and accessory building standards.

(Source: WOS 2001-13, October 21, 2001, Section XI)

Repealed 10.312 ENFORCEMENT AND PENALTIES

A. Upon discovery of any nuisance as defined in Section III [WOTC 10.303], the Zoning Administrator shall issue a citation ordering abatement. If the responsible party fails to abate such nuisance, the Zoning Administrator shall submit the citation to the Tribal Prosecutor for enforcement in Tribal Court. Upon finding an existence of a nuisance as defined in Section III [WOTC 10.303], the Court shall order the nuisance abated. The Court is authorized to impose fines and/or jail time under its contempt powers if its orders are not complied with, and make such other orders as may be necessary to abate the nuisance.

B. The Zoning Administrator shall submit all other citations for violations of this Statute that cannot be resolved without action of the Court to the Tribal Prosecutor for enforcement in Tribal Court.

C. Any person who violates any provision of this Statute or who fails to comply with any of the regulatory measures or conditions of the Zoning Administrator or Zoning Board shall be subject to a civil fine not to exceed one hundred dollars ($100.00). Each day such violation continues shall be deemed a separate offense.

(Source: WOS 2001-13, October 21, 2001, Section XII)

Repealed 10.313 APPEALS

A. Any person who claims to be aggrieved by a decision of the Zoning Administrator may appeal such decision to the Zoning Board. Within fourteen (14) days of the challenged decision, the person must file a written appeal to the Zoning Board including at a minimum:

1. A copy of the Zoning Administrator's decision being challenged;

2. A clear and concise statement of the reason(s) the appellant believes the decision should be overturned by the Zoning Board; and

3. The relief requested from the Zoning Board.

The Zoning Board shall hear the appeal within sixty days (60) days of filing either during a regular meeting or special meeting called for that purpose, and issue its written ruling within ten (10) days of such hearing. The person appealing cannot proceed with any non-permitted construction while the appeal is pending.

B. The person who appealed to the Zoning Board may appeal the decision of the Zoning Board to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Zoning Board's ruling. The Court shall only overturn the decision of the Zoning Board if it finds such decision to be clearly arbitrary, capricious, or otherwise not in accordance with this Statute or other applicable law.

(Source: WOS 2001-13, October 21, 2001, Section XIII)

Repealed 10.314 ZONING BOARD

A. The Tribal Council shall appoint a Zoning Board consisting of three (3) LTBB Tribal members over eighteen (18) years of age. Members of the Zoning Board shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, one person shall be appointed to a one (1) year term, one person shall be appointed to a two (2) year term, and one person shall be appointed to a three (3) year term. All appointments thereafter shall be for three (3) year terms. There shall be a Chairperson of the Zoning Board, who shall be selected by the members of the Board from the Board members for a one year term. Upon enactment of this Statute, the Tribal Council shall serve as interim Zoning Board until the Zoning Board is appointed and sworn in.

B. Two members of the Zoning Board shall constitute a quorum.

C. Subject to the availability of funding and a budget approved by the Tribal Council, members of the Zoning Board may receive a stipend, mileage and expense reimbursement for attendance at properly called meetings at which a quorum is present.

D. The Zoning Board shall have the following duties:

1. Rule on variance applications in accordance with Section 7.05 (6) of this Statute.

2. Rule on applications for temporary building and uses in accordance with Section 7.05 (7).

3. Aid the Zoning Administrator in interpretation of this Statute and any regulations that may be adopted pursuant to it.

4. Hear and rule on appeals of decisions of the Zoning Administrator.

(Source: WOS 2001-13, October 21, 2001, Section XIV)

Repealed 10.315 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this statute 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, part, 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.

(Source: WOS 2001-13, October 21, 2001, Section XV)

Repealed 10.316 EFFECTIVE DATE

This Statute takes effect upon enactment [October 21, 2001].

(Source: WOS 2001-13, October 21, 2001, Section XVI)

Repealed Chapter 4. Building Code Adoption

Repealed 10.401 PURPOSE

The purpose of this Statute is to protect and promote the health and safety of LTBB and its members through adoption of building, property maintenance, mechanical and safety codes. This Statute repeals and replaces Waganakising Odawak Statutes 1997008, 1997009, 1997010, 1997011, 1997012, and 1997013.

(Source: WOS 2002-02, April 21, 2002, Section I)

Repealed 10.402 ADOPTION OF CODES

A. The following codes are on file in the offices of the Tribal Planning Department:

1. International Building Code 2000;

2. International Fire Code 2000;

3. International Residential Code 2000;

4. International Plumbing Code 2000;

5. International Private Sewage Code 2000;

6. International Mechanical Code 2000;

7. International Fuel Gas Code 2000;

8. International Energy Code 2000; and

9. International Property Maintenance Code 2000

B. General Fee Schedule: The fee for inspections under the Codes adopted hereunder shall be based on 6% of estimated project cost, or actual inspection costs plus indirect costs, whichever is less.

C. The Little Traverse Bay Bands of Odawa Indians adopts these Codes as Tribal law with the jurisdiction in each code inserted as Little Traverse Bay Bands of Odawa Indians, and the following modifications:

1. **International Fire Code**.

a. Section 109.3 Violations, page 11, paragraph 1, line 6: insert "civil infraction;" line 7: insert $2500.00.

2. **International Residential Code**.

a. Section R301.2 regarding hurricane wind design standards is not applicable.

3. International Plumbing Code.

a. Section 106.6.2, Paragraph 1, line 3, Appropriate Schedule: insert "This schedule will be determined by the project."

b. Section 106.6.3, Paragraph 1, Numeral 2, Fee refunds: insert "100%," numeral 3: insert "100%."

c. Section 108.4, Paragraph 1, line 7, Specify Offense: insert "Civil infraction," line 8: insert "$2500.00."

d. Section 108.5, Paragraph 1, line 13, Amount: insert "$250.00," line 14: insert "$5000.00"

4. International Private Sewage Disposal Code.

a. Section 106.4.2, Paragraph 1, Fee Schedule: The fee schedule is set out in Section II (B) of this Statute.

b. Section 106.4.3, Paragraph 1, numeral 2 and 3: insert "100% of the fee returned."

c. Section 108.4, Paragraph 1, Line 7: insert "civil infraction," line 8: insert $100.00 for first offense and $250.00 for second offense.

d. Section 108.5, Paragraph 1, line 13: insert $1000.00, line 14: insert $10,000.00

e. Section 405.2.5, Paragraph 1, line 2: insert "start of construction," line 3: insert "upon completion of construction."

f. Section 405.2.6, Paragraph 1, line 6: insert "date of construction."

5. International Mechanical Code.

a. Section 106.5.2, Paragraph 1, line 3, Fee Schedule of Mechanical Work): The fee schedule is set out in Section II (B) of this Statute.

b. Section 106.5.3, Paragraph 1, Specify Percentage: insert “100%”after numeral 2, and “75%” after numeral 3.

c. Section 108.4, Paragraph 1, line 7, Violations: insert “Civil infraction,”line 8: insert “$2500.00.”

d. Section 108.5, Paragraph 1, line 13, Stop work orders: insert “$250.00," line 14: insert “$5,000.00.”

6. International Fuel Gas Code.

a. Section 106.5.2, Paragraph 1, line 13, Appropriate Schedule: The fee schedule is set out in Section II (B) of this Statute.

b. 106.5.3, Paragraph 1, numeral 2 and 3, Fee Refunds: insert “100%”

c. 108.4, Paragraph 1, line 6: insert “Civil infraction,” line 7: insert “$2500.00.”

7. International Electrical Code.

a. Section 404.2, Paragraph 1, line 4 (fee schedule) insert The fee schedule is set out in Section II (B) of this Statute.

8. International Property Management Code.

a. Section 103.6, Page 2, Paragraph 1, line 4: insert “Based on 6% of estimated project cost, or actual inspection costs plus indirect costs, whichever is less.”

b. Section 303.14, Page 10, Paragraph 1, line 1 (Date): insert "May 1st through September 31st."

c. Section 602.3, Page 17, Paragraph 1, Line 5 (Date): insert "September 31st through May 15."

d. Section 602.4, Page 17, Paragraph1, line 3 (Date): insert "September 31st through May 15."

(Source: WOS 2002-02, April 21, 2002, Section II)

Repealed 10.403 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this Statute or the Codes adopted hereunder 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, part, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute or Code adopted hereunder, the entirety of the balance of the Statute or Code to remain in full and binding force and effect.

(Source: WOS 2002-02, April 21, 2002, Section III)

Repealed 10.404 EFFECTIVE DATE

This Statute takes effect upon enactment.

(Source: WOS 2002-02, April 21, 2002, Section IV)

Repealed Chapter 5. Site Plan Review

Repealed 10.501 SITE PLAN REVIEW

Site Plan Review and approval of all development proposals listed below is required by the

provisions of this Section. The intent of this Section is to provide for consultation and cooperation between the developer and the Planning Department so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this statute. Through the application of the following provisions, the attainment of the Comprehensive Plan of the Little Traverse Bay Bands of Odawa Indians (LTBB) will be assured and the LTBB community will develop in an orderly fashion.

(Source: WOS 2005-05, May 1, 2005, Section I)

Repealed 10.502 SITE PLAN REVIEW IN USE DISTRICTS REQUIRED

A site plan shall be submitted to the Planning Department for approval of any use in the Low Density/Suburban Residential, Medium Density Cluster Residential, Multi-Family/Mixed Residential, Forest/Recreational/Conservation, Commercial, Governmental Ceremonial/Outdoor Assembly zones and shall be required in the following situations:

A. Any use or development for which the submission of a site plan is required by any provision of this statute.

B. Any development, except single-family platted residential, for which off-street parking areas are provided as required in this statute.

C. Any use in a multifamily or nonresidential district, lying contiguous to or across a street from a single-family residential district and/or use.

D. Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.

E. All Special Land Uses (or conditional uses) in single-family districts such as, but not limited to: churches, schools, public facilities, and similar uses.

F. All single-family residential uses subject to the requirements of the - LTBB Subdivision statute if enacted.

G. All developments in wetlands or 100 year floodplains, including individual single family homes for which a permit is required by the Natural Resources Department.

H. All other developments in which ownership interests in land are transferred for the purpose of development of a physical structure.

I. All site condo and condominium subdivisions developed pursuant to applicable law.

J. For the purposes of this statute "licensed" or "registered" means licensed or registered with an appropriate Tribal, state, federal or local agency.

Repealed 10.503 APPLICATION FOR SITE PLAN REVIEW

An application for Site Plan Review shall be submitted to the Planning Department. The detailed site plan presented for consideration shall contain all information required in this statute.

A. Each submission for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in subsection five (5) below. The application shall at a minimum, include the following information:

1. The applicant's name, address, and phone number in full.

2. Proof of property ownership, and whether there are any options on the property, or any liens against it.

3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.

4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).

5. The address and or parcel number of the property.

6. Name and address of the developer (if different from the applicant).

7. Name and address of the engineer architect and/or land surveyor.

8. Project title.

9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the statute.

10. A vicinity map drawn at a scale of 1"=2000' with north point indicated.

11. The gross and net acreage of all parcels in the project.

12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.

13. Project completion schedule/development phases.

14. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands. (if formal impact statements are required, they would be stated here, or referenced).

B. The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:

1. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.

2. Existing topographic elevations at two (2) foot intervals, proposed grades and

direction of drainage flows.

3. The location and type of existing soils on the site and any certifications of borings.

4. Location and type of significant existing vegetation.

5. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.

6. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.

7. Proposed location of accessory structures, buildings and uses, including, but not limited to, all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.

8. Location of existing public roads, rights-of-way and private easements of record and abutting streets.

9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.

10. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.

11. Location, size, and characteristics of all loading and unloading areas.

12. Location and design of all sidewalks, walkways, bicycle paths and areas for

public use.

13. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.

14. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.

15. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

16. Location, size and specifications of all signs and advertising features with cross-sections.

17. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

18. Location and specifications for all fences, walls and other screening features with cross-sections.

19. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

21. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

22. Identification of any significant site amenities or unique natural features.

23. Identification of any significant views onto or from the site to or from adjoining areas.

24. North arrow, scale and date of original submission and last revision.

25. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

(Source: WOS 2005-05, May 1, 2005, Section II [original contains numbering error repeating section II])

Repealed 10.504 SITE PLAN REVIEW AND APPROVAL AUTHORIZED

A. The Planning Department as specified in this Section, shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this statute. Each site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in Section VI and subsection A, of this statute. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Planning Department. The Zoning Administrator shall forward any site plan received to the Planning Department for review. Those site plans which require review will then be submitted to the Planning Department for action along with the recommendation as to conformity or nonconformity with statute requirements and what revisions or conditions, if any, would be necessary in order to be in conformance. Prior to any final decision, the Planning Department may seek the recommendations of the LTBB Natural Resources Department, Economic Development Department, Housing Department, and Environmental Department. The Planning Department may also seek consultation and recommendations from other governments, licensed architects and/or licensed engineers.

B. All site plans shall be acted upon within sixty (60) days of receipt by the Planning Department of a complete application and site plan meeting the requirements of subsection 2 above. Following approval of a site plan, the petitioner shall apply for the appropriate LTBB, County, State or Federal permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

(Source: WOS 2005-05, May 1, 2005, Section III)

Repealed 10.505 PROCEDURES FOR SUBMISSION AND REVIEW OF APPLICATIONS FOR MAJOR PROJECTS

A. Major projects. All developments greater than 2500 square feet of structure, or larger than five (5) acres in size, and all PUD's are major projects, which require preliminary site plan review by the Planning Department pursuant to the requirements below. All other projects are either minor projects (see Subsection 11) subject to review and approval by the Planning Department or amendments to existing site plans, which are processed pursuant to the requirements in Subsection 12 below.

B. Submission requirement. The applicant shall complete and submit the required number of copies of an application for Site Plan Approval, site plans, and other information where applicable. Compliance with the requirements of the Zoning Statute is mandatory. The procedure for processing major project site plans includes three phases: conceptual review via a re-application conference, preliminary site plan review and final site plan approval.

C. Pre-application conference. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with exiting development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Planning Department and such other LTBB representatives as appropriate, including at least one member of the Planning Department. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the statute for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Zoning Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

D. Preliminary Site Plan Review. The second phase is called Preliminary Site Plan Approval. At this step a preliminary site plan meeting the submission requirements of this statute (see Subsection 5) is reviewed by the Planning Department the changes necessary, if any, for final site plan approval are indicated in writing to the applicant.

E. **Final Site Plan Review**. The approving body or official shall indicate in writing that all requirements of the statute including those of other reviewing agencies have been met including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

(Source: WOS 2005-05, May 1, 2005, Section IV)

Repealed 10.506 DISTRIBUTION OF REQUIRED COPIES AND ACTION ALTERNATIVES

Where Site Plan Review is required by this statute, an applicant for Site Plan Approval shall complete and submit copies of an Application for Site Plan Approval, site plans, and other information where applicable.

A. The Application for Site Plan Approval must be obtained from the Planning Department. The applicant is asked to keep one copy for his/her records. The applicant shall return the original and two (2) copies of the application to the Planning Department at least thirty (30) days prior to the next preliminary site plan review or at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission if such commission has been created and appointed.

B. Application fees as found in the LTBB Fee Resolution must be paid when the application is submitted and sufficient escrow accounts must be established to cover the projected review costs.

C. The Planning Department will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting:

1. Upon determination of the Planning Department that a site plan is in compliance with the Zoning Statute and other plans or regulations, it shall be so indicated on the site plan.

2. Upon determination of the Planning Department that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan to the Planning Department for Final Site Plan Approval.

3. If extensive revisions to the site plan are necessary to meet the Zoning Statute, and other applicable plans and regulations, the site plan shall be disapproved, and the applicant requested to prepare an alternate site plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated on the plan.

D. Any site plans reviewed and approved by the Planning Department pursuant to Subsection 11 and all final site plans shall have the same submission requirements and action alternatives as for preliminary site plans described in the above requirements with the following exceptions:

1. Three (3) copies of the final site plan and related information shall be submitted.

2. Three (3) copies will be distributed to other reviewing agencies as determined necessary by the Planning Department.

3. Final action shall be taken within thirty (30) days.

E. When a site plan is reviewed and approved or disapproved by the Planning Department, and all steps completed, three (3)) copies of the site plan will be marked by the Planning Department for the following distribution:

1. One (1) copy returned to the applicant signed by the Director of the Planning Department including any conditions of approval.

2. One (1) copy forwarded to the Building Department for filing.

3. One (1) copy forwarded to the Planning/Zoning Department for filing.

F. Upon Final Site Plan Approval by the Planning Department a building permit may by obtained subject to review and approval of the plans by a licensed architect or engineer.

G. Failure to initiate construction of an approved site plan within six (6) months of approval shall require the applicant to appear before the Tribal Council and demonstrate why the approval should not be revoked. After a hearing the Planning Department may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

2. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

3. A change in LTBB law affecting the previous approval has occurred;

4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

H. Thirty (30) days prior to expiration of an approved site plan pursuant to Subsection h. above, an applicant may make application for a six (6) month extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted.

I. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

J. Any subsequent re-submission shall be processed as a new request with new fees, except for minor amendments pursuant to Subsection 12 below.

(Source: WOS 2005-05, May 1, 2005, Section V)

Repealed 10.507 STANDARDS FOR GRANTING SITE PLAN APPROVAL

A. Each site plan shall conform to all applicable provisions of this Zoning Statute and the standards listed below:

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this statute.

2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.

3. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.

4. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

6. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

7. There shall be provided a pedestrian circulation system, which is insulated as completely as reasonably possible from the vehicular circulation system.

8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of appropriate materials no less than six (6) feet in height.

9. Exterior lighting shall be arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

10. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of way equal to that specified in the Comprehensive Plan.

11. All streets shall be developed in accordance with the Subdivision Control Statute and/or applicable County Road Commission, Bureau of Indian Affairs, or LTBB specifications.

12. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

(Source: WOS 2005-05, May 1, 2005, Section VI)

Repealed 10.508 CONDITIONAL APPROVALS

A. The Planning Department may condition approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

1. Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by

the land use or activity,

2. Would protect the natural environment and conserve natural resources and energy,

3. Would insure compatibility with adjacent uses of land, and

4. Would promote the use of land in a socially and economically desirable manner.

(Source: WOS 2005-05, May 1, 2005, Section VII)

Repealed 10.509 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following Final Approval of a site plan by the Planning Department, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this statute and subject to sanctions of as set out else where in this statute or a separate statute if enacted.

(Source: WOS 2005-05, May 1, 2005, Section VIII)

Repealed 10.510 PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the Zoning Statute provisions, protecting the natural resources and the health, safety and welfare of the citizens of the Tribe and future users or in habitants of an area for which a site plan for a proposed use has been submitted. The Tribal Council may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this statute, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

A. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Planning Department.

B. Where the Tribal Council requires a performance guarantee, said performance guarantee shall be deposited with the Chief Financial Officer prior to the issuance of a building permit by the Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee the LTBB shall deposit the performance guarantee, if in the form of a cash deposit or certified check in an interest-bearing account to the applicant.

C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.

D. In the event the performance guarantee deposited is a cash deposit or certified check, the LTBB shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Statute standards and the specifications of the approved site plan.

E. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Chief Financial Officer shall return to the applicant the performance guarantee deposited and any interest earned thereon.

F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the LTBB, the LTBB shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the LTBB to complete the improvements for which it was posted, the applicant shall be required to pay the LTBB the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the LTBB use the performance guarantee or a portion thereof, to complete the required improvements, any

amounts remaining after said completion shall be applied first to the LTBB administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the LTBB to insure completion of an improvement associated with the proposed use prior to the LTBB conditional approval, the applicant shall not be required to deposit with the LTBB performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the LTBB and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the LTBB regarding the performance guarantee.

(Source: WOS 2005-05, May 1, 2005, Section IX)

Repealed 10.511 PLANNING DEPARTMENT REPORT ON EVERY SITE PLAN

The Planning Department shall prepare a report of each and every site plan submitted in accordance with this section, containing a synopsis of the relevant facts contained in and related to this site plan, together with the Planning Department's proposed determination.

(Source: WOS 2005-05, May 1, 2005, Section X)

Repealed 10.512 PLANNING DEPARTMENT APPROVAL

A. The Planning Department shall review and approve the following site plans without their submission to the Tribal Council except that where the applicant so requests, the Tribal Council so requests, or the Planning Department so requests then the site plan shall be reviewed by the Tribal Council before final action by the Planning Department:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Statute.

2. Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this statute and does not increase the size of the existing use or structure more than 25% of the present size.

3. Accessory storage buildings in all Zoning Districts.

4. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this statute.

5. For those Special Land Uses so specifically identified in this statute.

6. Amendments to approved site plans.

7. Final site plans.

8. Any other site plan review not delegated for review by the Tribal Council.

B. The Planning Department shall apply all applicable standards and procedures of this statute in approving; conditionally approving or denying site plans.

C. Data submission requirements shall be as specified in Section - Subsection above.

(Source: WOS 2005-05, May 1, 2005, Section XI)

Repealed 10.513 AMENDMENTS TO APPROVED SITE PLANS

A. Amendments to an approved site plan may be made by the Planning Department provided that such changes conform to the Zoning Statute and the land owner agrees. Minor changes to an approved site plan may be approved by the Planning Department after construction has begun provided no such change results in any of the following:

1. A significant change in the use or character of the development.

2. An increase in overall coverage of structures.

3. A significant increase in the intensity of use.

4. A reduction in required open space.

5. A reduction in required off-street parking and loading.

6. A reduction in required pavement widths or utility pipe sizes.

7. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

B. No fees shall be required for the following minor amendments:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s), relocation of building entrances or exits or shortening of building canopies.

2. Changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided.

3. Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below statute requirements.

4. Moving of ingress and egress drives a distance of not more than 100 feet if required by the appropriate state, county or other local road authority with jurisdiction.

5. Substituting landscape plan species provided a nurseryman; landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects.

6. Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.

7. Increase peripheral yards.

8. Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils provided that in so doing no setback requirement of the statute is violated and no significant reduction in safety or in the amount of open space is thereby affected.

C. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder, the Building Inspector, the Planning Department in writing that site plan approval has been suspended pending approval by the Planning Department or Tribal Council, as applicable, of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the Building Inspector for that portion of the project, which is not in compliance with the statute. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the statute requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector, the Planning Department that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

(Source: WOS 2005-05, May 1, 2005, Section XII)

Repealed 10.514 APPEALS OF FINAL SITE PLANS

A. Any person aggrieved by a decision of the Planning Department in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable statute requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

(Source: WOS 2005-05, May 1, 2005, Section XIII)

Repealed 10.515 AS-BUILT SITE PLAN

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two (2) copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator may circulate the as built plans among the appropriate departments for review to insure conformity with the approved site plan and other requirements. Once each department has approved the as built plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

(Source: WOS 2005-05, May 1, 2005, Section XIV)

Repealed 10.516 LAND CLEARING

No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith for which site plan approval is first required by this statute. Nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or floodplains permits. Any violation of this provision is subject to the fines and penalties prescribed in Section of this statute for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

(Source: WOS 2005-05, May 1, 2005, Section XV)

Chapter 6. Land Use, Building Regulation, and Zoning Statute

10.601 SHORT TITLE

This Statute may be cited as the “Land Use Statute.”

(Source: WOS 2009-007, March 8, 2009, Section I)

10.602 PURPOSE

The purpose of this Statute is to provide for the regulation of land use; set standards for the construction of buildings, structures, appurtenances, additions and decorations which may accompany them; and other developmental characteristics which may have an effect upon the public health, safety, and general welfare and have such regulated through the creation of the "Planning, Zoning and Building Department"

(Source: WOS 2009-007, March 8, 2009, Section II)

10.603 REPEAL OF PREVIOUS LEGISLATION

This Statute repeals and replaces the Zoning Statute, WOS 2001-13; Building Code, WOS 2002-02; Site Plan Review, WOS 2005-05, as may have been amended, subject to the following:

A. Non-Conforming Uses. The use of any dwelling, building, structure, land or premises which was in existence and permitted under Tribal law at the time of enactment of this Statute may be continued at the discretion of the owner thereof, even though such use does not conform to the provisions of this Statute.

B. Building Code, WOS 2002-02, is only repealed upon Tribal Council approval of replacement Building Code Regulations, pursuant to this Statute.

(Source: WOS 2009-007, March 8, 2009, Section III)

10.604 DEFINITIONS

The following definitions apply in this Statute:

A. **"**Area Variance" means a departure from yard, height or other numerical requirement as stipulated in a zoning statute or regulation.

B. **"**Conceptual Programming" means the process whereby initial concepts for land uses, development or infrastructure are pursued, formalized, and investigated for fundability.

C. "Department" means the Planning, Zoning and Building Department created under this Statute.

D. **"**LTBB" or "Tribe" means the Waganakising Odawak Nation, also known as the Little Traverse Bay Bands of Odawa Indians

E. "Master Land Use Plan" means a policy guide for land development, acquisition and use. This document is derived from the "Strategic Plan for Land Acquisition" as developed by the Legislature, research, and public input.

F. "Trust Land" or "land in trust status" means land for which the United States holds fee title in trust for the benefit of LTBB.

G. **"**Use Variance" means authorization of uses not permitted by a zoning statute or regulation.

(Source: WOS 2009-007, March 8, 2009, Section IV)

10.605 CREATION OF THE PLANNING, ZONING AND BUILDING DEPARTMENT

The Planning, Zoning and Building Department is hereby created within the Executive Branch to carry out the purposes stated in Section II, and each annual budget submitted by the Executive shall include funding for the Department's operation subject to funding availability.

(Source: WOS 2009-007, March 8, 2009, Section V)

10.606 HANDICAP ACCESSIBLE NEW CONSTRUCTION

All new buildings, structures, appurtenances, and additions built by the Tribe shall be designed and constructed in a manner that is handicap accessible.

(Source: WOS 2009-007, March 8, 2009, Section VI)

10.607 AUTHORIZATION OF TRADITIONAL ACTIVITIES ON TRIBALLY OWNED PROPERTIES

Article I, § B (1) of the Constitution "directs the Legislative, Executive and Judicial branches of government to…promote the preservation and revitalization of Anishinaabemowin and Anishinaabe culture." The ability of the Citizens of the Waganakising Odawak Nation to utilize Tribally owned lands for ceremonies and other cultural or traditional activities is essential for the survival and revitalization of Anishinaabe culture. Citizens of the Waganakising Odawak Nation have a right to conduct ceremonies and other cultural or traditional activities on Tribally owned lands subject to health, safety and other reasonable restrictions outlined in regulations pursuant to this statute.

(Source: WOS 2009-007, March 8, 2009, Section VII)

10.608 DUTIES AND AUTHORITY OF EXECUTIVE BRANCH

A. When Tribal Council requests lands be placed in Trust under Article VII.D.10 of the Constitution and designates the intended purpose of the individual parcel, the Executive Branch shall prepare the application and take all necessary steps to complete the Trust acquisition.

B. The Executive Branch develops Conceptual Programming of land uses, structures, and road systems for Tribal Council approval prior to their development or implementation.

C. Plans and Regulations.

1. Creation and Implementation of Master Land Use Plan: The Master Land Use Plan is a policy document that depicts the demographic and development conditions in the area encompassed by the LTBB Reservation, as well as the potential for or limitations on development for various areas within the Reservation. From this, a set of policies are synthesized which indicate how LTBB intends to reflect this information and the overall mission and vision of the

Tribe in development activities. The Executive Branch shall develop regulations, subject to Tribal Council approval, creating and implementing a Master Land Use Plan.

2. Land Base Restoration Plan: The Land Base Restoration Plan is a document that depicts the originally intended uses of Trust land in accordance with the content of Trust applications to the Secretary of the Interior. It is a document that describes the purpose for an individual parcel of land at the time of the Trust application, and any subsequent use modifications by Tribal Council. It implies, but does not specify, the zoning category for a particular parcel of land. The Executive Branch shall develop regulations, subject to Tribal Council approval, creating and implementing a Land Base Restoration Plan.

3. Zoning: Zoning is implemented by LTBB through a series of regulations developed pursuant to this Statute, and becomes the primary regulatory instrument for implementing the Master Land Use Plan and Land Base Restoration Plan. Zoning divides a community into districts or "zones" which specify the permitted and prohibited uses. Further, it is the classification of land in any governmental jurisdiction into areas or districts in order to regulate building dimension, density, design, arrangement and use. The Executive Branch shall develop zoning regulations, subject to Tribal Council approval.

4. Site Plan: The Site Plan is a detailed plan, to scale, depicting how a site will be developed. It shows existing and proposed conditions, including lot lines, streets, building sites, buildings, other impervious surfaces, other areas of human disturbance, and major landscape features. The Executive Branch shall develop regulations, subject to Tribal Council approval, establishing a method for the review and approval, as well as final submission to Tribal Council of Site Plans for developments. Upon Tribal Council approval, a Site Plan is a legally binding document that is specific to that site and can only be modified by subsequent Tribal Council action.

5. Building Codes and Construction Plans: Building codes are a set of regulations that govern the content and execution of construction plans and projects.

Construction plans are detailed drawings and diagrams, usually drawn and plotted to scale, showing the structure or arrangement to accomplish the construction of a building or buildings, pursuant to an approved site plan. The Executive Branch shall develop regulations adopting building codes, subject to Tribal Council approval.

6. Utilization of Tribally Owned Lands by Tribal Citizens: The Executive Branch shall develop regulations, subject to Tribal Council approval, enabling Tribal Citizens to utilize designated Trust and other Tribally owned lands for cultural and/or traditional activities that would otherwise require a permit under approved regulations.

D. Citations. The Department is authorized to issue civil citations for violations of zoning regulations, building codes, or site plans subject to regulations developed by the Executive and approved by Tribal Council.

(Source: WOS 2009-007, March 8, 2009, Section IX)

10.611 ZONING BOARD OF APPEALS

A. Zoning Board of Appeals Established. A Zoning Board of Appeals ("Board") is hereby created. The Board shall adopt policies to carry out its duties under this Statute, subject to Tribal Council approval. The Board shall meet twice a year in regular meetings and additionally if necessary within 15 days of receiving any request for action by the Board.

B. Appointments, Term, Nepotism and Conflict

1. The Board shall consist of three (3) members nominated by the Executive and confirmed by the Tribal Council. To be eligible for appointment a person must be a Tribal Citizen who is at least eighteen (18) years of age and has read all Tribal zoning laws, regulations, policies and procedures. The Board members shall serve three year terms with initial appointments being one member for one year, a second member for two years, and a third for three years to provide for staggered terms.

2. Staff members may serve on the Board and may be compensated by stipend if the Board is not directly related to their employment, does not interfere with their work, and does not meet during scheduled work hours. If a Board meets during scheduled working hours and the staff member wishes to attend, the staff member must utilize PTO (personal time off), or flextime upon prior approval of the individual's supervisor.

3. Two or more members of the same immediate family as defined in the Constitution shall not serve on the Board at the same time.

4. No Board member may participate in making any decision that involves a personal or financial interest of the Board member or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

C. Open Meetings, Records

1. Board meetings shall be open to LTBB Citizens.

2. Board records shall be open to LTBB Citizens.

3. The Board must provide notice of meetings at least five days in advance of the meeting.

D. Compensation, Stipends

Any Board member who attends a properly noticed meeting shall be eligible for a stipend, mileage, and expenses, even if no official action can be taken due to lack of a quorum, subject to the availability of funds.

E. Zoning Board of Appeals Mandates. The Board shall hear and decide appeals on the grant or denial of permits, or the issuance of citations, under zoning regulations, building

codes, or site plans. Only a property owner may appeal a building code violation or permit denial. The Zoning Board is prohibited from granting Use Variances.

(Source: WOS 2009-007, March 8, 2009, Section IX)

10.610 APPEALS TO ZONING BOARD

A. A party who claims to be aggrieved by a decision of the Department relating to a grant or denial of a permit(s), or the issuance of citations, under zoning regulations, building codes, or site plans may appeal such decision to the Board, except as per Section IX.E only a property owner may appeal a building code violation or permit denial, and the Board cannot grant Use Variances.

1. An appeal of a decision of the Planning Department must be filed within fourteen (14) days of the challenged decision. The person or entity must file a written appeal to the Board including at a minimum:

   c. A clear and concise statement of the reason(s) the appellant believes the decision should be overturned by the Board; and

   d. The relief requested from the Board.

B. The Board shall hear the appeal within 15 calendar days of filing, either during a regular meeting or special meeting called for that purpose, and issue its written ruling within ten (10) days of such hearing. The person appealing cannot proceed with any non-permitted construction while the appeal is pending.

(Source: WOS 2009-007, March 8, 2009, Section X)

10.611 JUDICIAL REVIEW

A. Decisions of the Board may be appealed to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Board's ruling. The Court shall uphold the decision of the Board unless the Court determines that the Board's decision is clearly

arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

B. The Tribal Council expressly waives the sovereign immunity of the Tribe and its agents for the limited purpose of reviewing the decisions of the Board under the standards set forth in Section XI.A and allowing for the remedies set forth in Section XI.C.

C. In the event the Court finds the Board's decision to be clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations, it shall enter an equitable order overturning the Board's action, but shall not award monetary damages.

(Source: WOS 2009-007, March 8, 2009, Section XI)

10.612 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.

(Source: WOS 2009-007, March 8, 2009, Section XII)

10.613 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2009-007, March 8, 2009, Section XIII)

TITLE XI. HEALTH AND EDUCATION

Chapter 1. Health Commission
AMENDMENT TO HEALTH COMMISSION

11.101 FINDING

The Duties of the original Commission are no longer applicable as those duties are now the responsibility of the Little Traverse Bay Bands of Odawa Indians Health Department funded by I.H.S. General Funds and Third Party billing. The department's rules, policies, and regulations are provided by the I.H.S. funding source.

(Source: WOS 2009-003, January 25, 2009, Section I)

11.102 REPEALED

WAGANAKISING ODAWA STATUTE 1997-004 is hereby repealed in its entirety.

(Source: WOS 2009-003, January 25, 2009, Section II)

11.103 EFFECTIVE DATE:

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

(Source: WOS 2009-003, January 25, 2009, Section III)

Repealed 11.101 SHORT TITLE AND PURPOSE

Short Title. This Statute may be cited as the "Health Commission Act."

A. Purpose. The purpose of this Statute is to set up a Health Commission that will provide direction to Tribal Comprehensive Health Services based on community need.

(Source: WOS 1997004, April 20, 1997, Section I)

Repealed 11.102 CREATION OF THE HEALTH COMMISSION

A. Creation of Commission. The Tribal Council hereby creates the Health Commission,

which shall consist of seven (7) LTBB Tribal members at least eighteen years of age appointed by the Tribal Council. Members of the Tribal Council may be appointed to the Commission. Appointees shall be either knowledgeable concerning health delivery systems or recipients of services provided through the Comprehensive Health Center.

B. Term and compensation. Members of the Health Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, three people shall be appointed to two (2) year terms, and four people shall be appointed to three (3) year terms. All appointments thereafter shall be for three (3) year terms. The Commission shall appoint separate individuals from within the Commission to serve as Chairperson, Vice-Chairperson, Secretary and Treasurer for terms of (1) year. There shall be no limit on reappointment. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

C. Oath of office. Immediately upon appointment, the Tribal Chairman shall administer the oath of office to the members of the Health Commission 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 Statute.

D. Vacancies. In the event a vacancy occurs in the Health Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal member to fill the remaining term of office.

E. Removal. Commissioners may only be removed in accordance with the Tribal statute governing such removal.

(Source: WOS 1997004, April 20, 1997, Section II)

Repealed 11.103 DUTIES OF THE HEALTH COMMISSION

The Health Commission shall have the following duties:

A. Develop proposed policies for the delivery of health services and recommend such policies to the Tribal Council for review and approval.

B. The Commission will be responsible for assisting the Health Department and/or Tribal Council in the preparation of the comprehensive health plan. The Commission will work jointly with the Tribal Health Director to assess health needs of the Indian Community and to prioritize services to assure the needs are fulfilled.

C. Periodically review the health contract budgets and services.

D. Receive notice of all Tribal Council and Tribal Administrative health related meetings where policies may be considered or adopted and attend such meetings whenever the Commission deems such attendance appropriate.

E. The Commission will be notified of all job openings within Comprehensive Health Care, and the Commission may appoint one of its members to the interview and selection team.

F. The Commission shall forward a copy of all of its minutes to the Tribal Council.

G. Engage in further health related activities as directed by the Tribal Council.

H. **Prohibited Activities**: The above duties do not include, and members of the Commission are prohibited from, all of the following:

1. Acting in an administrative or supervisory capacity with respect to any Comprehensive Health Center personnel or program.

2. Influencing application of established operating policies and procedures to cause benefit to any person, program, or agency that would otherwise not be so benefited.

3. Participating in any action of the Health Commission which would constitute a conflict of interest under the Tribe's Personnel Policies and Procedures.

(Source: WOS 1997004, April 20, 1997, Section III)

Repealed 11.104 STAFFING

The Tribal Council is authorized to assign administrative staff and staff with expertise in health delivery issues to assist the Commission.

(Source: WOS 1997004, April 20, 1997, Section IV)

Repealed 11.105 MEETINGS, VOTING

A. Meetings. The Health Commission may meet as often as they deem necessary but must meet at least once each quarter.

B. Voting. Actions of the Health Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters before the Commission. A quorum shall consist of four (4) members including the Chair. Provided, an action may be ratified by non-attending members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Commission meeting.

(Source: WOS 1997004, April 20, 1997, Section V)

Repealed 11.106 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, 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 Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

(Source: WOS 1997004, April 20, 1997, Section VI)

Chapter 2. Education Appeals Board

11.201 SHORT TITLE, PURPOSE AND DEFINITIONS

A. Short Title

This statute shall be entitled "The Education Appeals Board Statute". This Statute repeals and replaces WAGANAKISING ODAWAK STATUTE (WOS) 2007-012.

B. Purpose

The purpose of this Statute is to create a Board to hear appeals on educational programs administered by the Department of Education.

C. Definitions

As used in this Statute:

1. "Board" shall mean "The Education Appeals Board".

2. "Education Programs" means the Education Department.

3. "Emergency" means an unexpected situation that requires immediate action.

4. "LTBB" mean the Little Traverse Bay Bands of Odawa Indians or the Waganakising Odawa.

(Source: WOS 2009-011, May 3, 2009, Section I)

11.202 CREATION OF THE BOARD

The Education Commission is hereby renamed the Education Appeals Board, which shall consist of three (3) Members. Education Commission Members currently serving shall take the position as Education Appeal Board Members until their current terms expire. Upon expiration of their term, a member may reapply for a position on the Board.

(Source: WOS 2009-011, May 3, 2009, Section II)

11.203 DUTIES AND AUTHORITY OF THE BOARD

Conduct hearings for appeals of programs administered by the Education Department such as Higher Education Scholarship Program, Adult Vocational Training Scholarship Program and Direct Employment Program.

(Source: WOS 2009-011, May 3, 2009, Section III)

11.204 MEETINGS AND EMERGENCY MEETINGS/HEARINGS

A. Regularly scheduled meetings shall be held to conduct business and hearings of the Board as deemed necessary.

B. An emergency meeting shall be held only for matters involving the needs of a student.

(Source: WOS 2009-011, May 3, 2009, Section IV)

11.205 REGULATIONS

The Executive may develop Regulations as it deems necessary for the implementation of the intent of this Statute and shall forward such Regulations to the Tribal Council for approval.

(Source: WOS 2009-011, May 3, 2009, Section V)

11.206 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2009-011, May 3, 2009, Section VI)

11.207 EFFECTIVE DATE

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

(Source: WOS 2009-011, May 3, 2009, Section VII)

Chapter 3. Michelle Chingwa Education Assistance Act

11.301 PURPOSE

This Michelle Chingwa Education Assistance Act is hereby enacted to enable present and future generations of Waganakising Odawak to obtain post secondary educational opportunities and repeals and replaces the original and amended Michelle Chingwa Education Assistance Act.

(Source: WOS 2007-005, December 5, 2007, Section I)

11.302 DEFINITIONS

A. "Accredited" shall apply to those post secondary institutions of higher education that are accredited by an agency, organization or state agency recognized by the United States Department of Education as an accrediting agency (They are listed on the Department's website).

B. "Citizen" shall mean, for the purpose of this statute, a Member of the Little Traverse Bay Bands of Odawa Indians.

C. "Semester equivalent" shall mean a prorated amount based on a semester that is between 14 and 17 weeks long and will use 16 weeks as the basis for calculating equivalents. A 12 week quarter would count as 75% of a semester equivalent. Schools sometimes allow students to take longer than 16 weeks for a semester course, for such courses they shall be considered as one semester equivalent per credit. Graduate research credit will need to be addressed on a case

by case basis.

D. The **"Tribe"** or **"LTBB"** shall mean the Little Traverse Bay Bands of Odawa Indians

(Source: WOS 2007-005, December 5, 2007, Section II)

11.303 APPLICATION

D. The program shall be administered by the Education Department.

E. The program shall fund scholarships to Tribal Citizens attending:

1. accredited post secondary institutions of higher education, colleges and universities;
2. Tribally controlled colleges that are seeking accreditation;
3. Other colleges or programs approved by Tribal Resolution.

F. Scholarships shall be administered in the following manner:

1. Deadlines are established as follows:
a. Fall, October 1
b. Winter, February 15
c. Summer, June 15
d. Deadlines for trimesters or quarters shall be 30 days after the beginning of the session.
2. Scholarship applications shall not be accepted after the deadline.

3. The scholarships shall be granted up to the deadline for each semester, trimester or quarter.

4. Scholarships granted after the deadlines shall be classified as late. Late scholarships shall be available only to those who failed to complete their application at no fault of the applicant and provided funds are available.

5. The Executive shall have the authority to limit the amount of late scholarships funded during the winter and summer cycles to help project available funds for the fall cycle.

6. The scholarships shall be calculated on a semester equivalent per credit hour basis with five classifications:

a. Classes:

i. Class 1, Courses or College programs that are sponsored by Little Traverse Bay Bands of Odawa Indians and provided nearly free of cost to the student (i.e. the original Waganakising Odawa Office Technology Program paid all tuition, books, fees and stipend and would need no further funding for attendance).

ii. Class 2, Junior or community colleges

iii. Class 3, Four year colleges or four year degree programs

iv. Class 4, Graduate level courses

v. Class 5, free courses such as the free online courses provided by Bay Mills Community College.

b. The limit and level of each scholarship classification shall be:

i. Set by the Executive

ii. Semester equivalent limits should not exceed

a) 18 credits per semester for undergraduate courses

b) 12 credits per semester for graduate courses

c. Scholarship levels for Class 1, shall cover actual expenses plus smaller semester equivalent amount to cover other student expenses (i.e. $25 per credit hour to cover travel, meals, etc).

d. Scholarship levels for Class 2, 3, & 4 respectively shall follow a general ratio of 2/3/4 (i.e. Class 2, $200, Class 3, $300, Class 4, $400) and should be raised or lowered to accommodate the budget but an attempt should be made to keep the levels as consistent as possible to help students plan from semester to semester.

e. Scholarship levels for Class 5 shall be limited to a small per credit hour amount to cover miscellaneous expenses (i.e. $15 per credit to cover books, computer disks, etc.).

f. Students enrolled in multiple classes of scholarship shall be awarded the appropriate level for each course.

G. To be eligible for this scholarship the student must:

1. Be an enrolled Citizen of the Tribe;
2. Be enrolled in the educational institution for which the scholarship is being applied;
3. Maintain a 2.0 overall GPA (subject to appeal);
4. Have applied for other available financial aid and scholarships (i.e. the Pell Grant).

(Source: WOS 2007-005, December 5, 2007, Section III)

11.304 RESTRICTIONS

F. If a student withdraws from a course, their next scholarship shall be reduced by that equivalent amount subject to appeal.

G. Students will not be funded for a course more than twice unless the student can prove they need to take the class over to complete a degree requirement but shall be limited to three times.

(Source: WOS 2007-005, December 5, 2007, Section IV)

11.305 REGULATIONS REQUIRED

A. The Executive shall develop regulations for this statute; however, the implementation of the statute shall not be delayed by approval of regulations.

B. The regulations shall define the recipient of the scholarship checks, except that students that can prove their scholarship will reduce other financial aid shall become the sole recipient of their scholarship check for the duration of that school year.

C. The regulations shall define the appeal process. Appeals authorized by this statute shall be heard by the Education Commission until another body is appointed by statute, regulation, or appropriate resolution.

D. The regulations shall require the following minimum reports to Tribal Council:

1. Three summary reports for each semester's scholarships in March, July, and October and a year-end summary each January for all the previous year's scholarships.

2. Each report shall contain at a minimum:

a. Number of students in each class of scholarships

b. Number of semester equivalent credits in each class of scholarships

c. Total dollar amount of scholarships for each period and the year

d. Drop rates

e. Present scholarship rates and predicted rates needed to meet budget for the next cycle

f. Graduations and type of degrees received

H. Publication required: the Executive shall publish the scholarship limits and levels for the next scholarship cycle in November, April, and June of each year.

(Source: WOS 2007-005, December 5, 2007, Section V)

11.306 APPROPRIATIONS AUTHORIZED

This Education Assistance Act shall be funded by the Enterprise Fund General Welfare line item of the Enterprise fund with a minimum budget of $1,000,000.00 per LTBBOI fiscal year.

(Source: WOS 2007-005, December 5, 2007, Section VI)

11.307 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.

(Source: WOS 2007-005, December 5, 2007, Section VII)

11.308 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.
(Source: WOS 2007-005, December 5, 2007, Section VIII)

Chapter 4. Welfare of Adults

11.401 PURPOSE

Purpose of the Welfare of Adults statute is to protect the welfare of Adult Tribal Members that have been victims of abusive situations, abandonment, medical incapacitation, declared incompetent by a court of competent jurisdiction, or have been declared by a court of competent jurisdiction to be unable to take care of their own personal, medical, or financial matters.

(Source: WOS 2005-07, July 26, 2005, Section I)

11.402 DEFINITIONS

A. "**Adult**" means any enrolled or eligible member of the Little Traverse Bay Bands of Odawa Indians not declared a child under the jurisdiction of the Tribe's Indian Child Welfare Laws.

B. "**Guardian**" means a person assigned by a court of competent jurisdiction to exercise the duty and authority to provide care and control of a person under the Tribal Court's jurisdiction.

C. "**Tribe**" means the Little Traverse Bay Bands of Odawa Indians.

D. **"Tribal Member**" means any enrolled or eligible member of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2005-07, July 26, 2005, Section II)

11.403 AUTHORITY GRANTED

A. The Tribal Court may take the following actions upon petition by an interested party: determine competency, appoint guardianships, grant power of attorney, order foster care, order financial guardianship and/or order medical care. Active court cases under this Statute shall require review on an annual basis and shall include input provided by family members and an assessment of cultural appropriateness.

B. The Tribal Administration shall have the authority to advocate for and act on behalf of Adult Tribal Members that have been victims of abusive situations, abandonment, medical incapacitation, declared incompetent by a court of competent jurisdiction, or have been declared by a court of competent jurisdiction to be unable to take care of their own personal, medical, or financial matters. These actions can include but are not limited to foster care advocacy, or petitioning for court actions.

C. Any other interested party may petition the Tribal Court for any action authorized by this statute.

D. The Tribal Administration shall develop procedures for implementing this statute.

(Source: WOS 2005-07, July 26, 2005, Section III)

11.404 JURISDICTION

There may be various jurisdictions covering each case and it shall be left to the Tribal Administration to determine which jurisdiction to work in and when it is appropriate to request transfer of jurisdiction to the Tribal Court.

(Source: WOS 2005-07, July 26, 2005, Section IV)

11.405 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 section, subsection, paragraph, sentence, phrase or portion of this Statute shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2005-07, July 26, 2005, Section V)

11.406 EFFECTIVE DATE

This Statute takes effect thirty days from adoption.

(Source: WOS 2005-07, July 26, 2005, Section VI)

Chapter 5. Burial Program

11.501 PURPOSE

That the Little Traverse Bay Bands of Odawa Indians (LTBB) shall have a Burial Program for Tribal Citizens to provide financial assistance toward funeral, cremation, and burial expenses following the death of a Tribal Citizen and repeals and replaces WOS 2006-017 and any and all previous amendments.

(Source: WOS 2008-003, February 28, 2008, Section I)

11.502 ELIGIBILITY

A family member, legal guardian, or other person who has taken on the responsibility of paying for the funeral and burial cost of a deceased Tribal Citizen, may request Burial Program financial assistance. To be eligible, the deceased must be a Citizen with LTBB at time of death, or less than one year of age and eligible for citizenship with Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-003, February 28, 2008, Section II)

11.503 IMPLEMENTATION

A. LTBB shall maintain a separate Burial Program Account administered by the Executive Branch. Funds for the Burial Program will be appropriated annually in the budget process.

B. Burial funds are only provided through direct payment, or reimbursement with receipts, as a result of funeral and burial costs. Evidence of pre-paid burial expenses made by someone other than the deceased Tribal Citizens may be included for reimbursement. This assistance is only available if receipts are provided to LTBB no later than six months after the death. The receipts will be paid in the order received or according to the preferences indicated by the person handling the affairs of the deceased.

C. No direct payment or reimbursement shall be made prior to the death of a Tribal Citizen.

(Source: WOS 2008-003, February 28, 2008, Section III)

11.504 IMPLEMENTING REGULATIONS

The Executive Branch of Government shall adopt regulations to implement this Statute. Any previous regulations in place at the time of the enactment of this Statute shall remain in effect to the extent that they are consistent with this Statute, and until such further Regulations are approved by Tribal Council

(Source: WOS 2008-003, February 28, 2008, Section IV)

11.505 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 LTBB, 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.

(Source: WOS 2008-003, February 28, 2008, Section V)

11.506 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2008-003, February 28, 2008, Section VI)

Chapter 6. Food Safety Act

11.601 PURPOSE

This Statute is hereby enacted to establish a satisfactory level of food service safety within the Tribe's jurisdiction with the intent of promoting Tribal entrepreneurs.

(Source: WOS 2006-010, June 28, 2006, Section I)

11.602 DEFINITIONS

A. "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

B. "**Enterprise**" shall mean any legal form of business recognized by the Tribe or established by Tribal law.

C. "**Food Service Facility**" an establishment where food is served or sold for immediate consumption such as a deli, takeout, or restaurant.

D. "**Food Preparation Facility**" shall mean an establishment where food is prepared for off site sales such as a cannery or fish packing plant.

E. "**Food Sales Facility**" shall mean an establishment where food is sold for consumption off site such as a grocery store, fish store, or vegetable stand.

(Source: WOS 2006-010, June 28, 2006, Section II)

11.603 APPLICATION

A. The Tribe shall have the authority to regulate food service, food sales, and food preparation facilities owned or operated by the Tribe or the Tribe's enterprises.

B. The Tribe shall have the authority to regulate food service, food sales, and food preparation facilities owned or operated by Tribal Member enterprises that are legal business enterprises under the Tribe's business codes and that are within the Tribe's jurisdiction.

C. The Tribe shall have the authority to regulate food service, food sales, and food preparation facilities of temporary nature at community activities such as jiingtamak and feasts.

D. The Tribe shall have the authority to establish fees that do not exceed $100 per annum for permanent or $25 per temporary permits. Fees for Head Start, schools, and non profit corporations shall not exceed $25 per annum or $10 per temporary permit.

E. The Tribe shall have the authority to inspect facilities that are licensed by this statute and facilities that are with in Tribal jurisdiction and licensed by other jurisdictions such as portable kitchens at jiingtamak. Inspections of facilities that are licensed under the other laws shall be in accordance with those laws or the Tribe's which ever best serve the Tribe. Facilities that are open to the public shall be inspected during open hours while all other inspections shall require reasonable notice.

(Source: WOS 2006-010, June 28, 2006, Section III)

11.604 RESTRICTIONS

A. All inspection violations shall require reasonable suggested solutions on the same form as inspection violations are written.

B. Regulation of entrepreneurial businesses in Tribal homes shall not exceed the requirements necessary to prevent significant health risks.

C. Potlucks and traditional feasts shall not be regulated.

(Source: WOS 2006-010, June 28, 2006, Section IV)

11.605 REGULTIONS REQUIRED

A. The Tribal Executive shall adopt regulations to implement this statute.

B. The regulations concerning home businesses and temporary permits shall be those minimally required for food safety and shall ensure those regulations are available in pamphlet format to promote a food safety environment in these entrepreneurial facilities. The pamphlets should include temperatures and time requirements and warnings or reasons for the regulations.

C. All fines and penalties other than license revocation shall not exceed $50 and should only be used after warnings are issued.

(Source: WOS 2006-010, June 28, 2006, Section V)

11.606 PROCEDURES REQUIRED

A. None.

(Source: WOS 2006-010, June 28, 2006, Section VI)

11.607 APPROPRIATIONS AUTHORIZED

A. The Executive shall present Tribal Council with modifications to the present and future annual Budgets to include appropriations necessary to implement this statute.
(Source: WOS 2006-010, June 28, 2006, Section VII)

11.608 EXECUTIVE AUTHORITY

A. The Tribal Executive is hereby mandated to implement this Act and to enforce all approved Tribal Codes of Regulation.

(Source: WOS 2006-010, June 28, 2006, Section VIII)

11.609 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.

(Source: WOS 2006-010, June 28, 2006, Section IX)

11.610 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-010, June 28, 2006, Section X)

TITLE XII. CORPORATIONS, BUSINESSES AND COMMERCIAL TRANSACTIONS

12.101 PREAMBLE AND GENERAL DEFINITIONS

The purpose of the Little Traverse Bay Bands of Odawa Indians' Tribal Comprehensive Business Codes is to establish the policy which the Tribe, its entities, private businesses and

individuals may use to conduct business activities within its territorial and governmental jurisdiction. The policies shall apply to each of the Codes contained in Statute, The LTBB Odawa Tribal Comprehensive Business Codes. The provisions of this Statute shall be applied to promote its underlying purposes and policies.

The LTBB Tribal Court has jurisdiction to adjudicate matters arising from this Statute.
The Tribe recognizes that a strong Reservation economy must include both tribal and private sector development. It is the policy of LTBB to promote both tribal and private sector development within the exterior boundaries of the Reservation and elsewhere within the jurisdiction of the Tribe for Indian and non-Indian businesses. It is the policy of the Tribe to facilitate and enhance job stability, career opportunities and use of inherent Tribal powers to create and maintain a sound business environment within the Tribe's jurisdiction. Consistent with these goals, it is the policy of the Tribe to promote the least restrictive and most cost effective business environment.

It is the policy of the Tribe that, without waiving any authority over business activities, LTBB shall neither knowingly and unnecessarily obstruct or hinder, nor unreasonably interfere with private sector businesses that operate in accordance with the provisions of this Statute and any other LTBB or applicable law.

Nothing in this Statute shall be construed as creating a claim for monetary or injunctive relief against the Tribe or its officers and employees.

It is the policy of the Tribe to allow the use of tribal land, natural and financial resources and opportunities for the promotion of economic benefits to create jobs, expand business opportunities and secure business independence in order to achieve the goals prescribed in this Statute, consistent with applicable regulations and statutes, enacted now or hereafter.

Under this Statute, the Tribe may entertain proposals from private sector business interests for privatizing Tribal Governmental activities. If approved, the Tribe will enter into a contractual agreement with such business interests for carrying out such contracted services.

The Tribe authorizes businesses operating pursuant to the Tribe's Comprehensive Business Codes to apply for grants and other programs for which the Tribe is eligible, and that the Tribe

does not express an interest in applying for, and operate such programs within the Tribe's jurisdiction.

Nothing in this Code shall be construed as a waiver by the Tribe of its authority or jurisdiction over businesses operating within its jurisdiction.

As used in this Statute, unless intended otherwise by the context used, the following means:

A. "**Jurisdiction**" means the jurisdiction of the Little Traverse Bay Bands of Odawa Indians, whether within or without the exterior boundaries of the Reservation, as defined in the Tribal Constitution.

B. "**Reservation**" means the territory of the Little Traverse Bay Bands of Odawa Indians Reservation as presently and hereafter existing, as defined in the Tribal Constitution.

C. "**Tribe**" and "**LTBB**" mean the Waganakising Odawak, also known as the Little Traverse Bay Bands of Odawa Indians.

D. "**Statute**" means Statute xx, The LTBB Odawa Tribal Comprehensive Business Codes.

E. "**Business Codes**" means The LTBB Odawa Tribal Comprehensive Business Codes.

F. "**Tribal Council**" means the LTBB Odawa Tribal Council.

G. "**Tribal Court**" means the LTBB Odawa Tribal Court.

H. "**Tribal Constitution**" means the Interim Constitution of the LTBB Odawa Tribe or any Tribal Constitution adopted thereafter.

I. "**Tribal Law**" means the Tribal Constitution, all laws now or hereafter duly enacted by the Tribal Council, and the Tribal common law pronounced and established by the Tribal Court.

J. "**Tribal Member**" means an individual duly enrolled in the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2003-07, August 3, 2003, Preamble and General Definitions)

Chapter 1. Corporations Code

PART ONE – GENERAL PROVISIONS

12.102 SHORT TITLE

This Chapter shall be known and may be cited as the Corporations Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.101)

12.103 SCOPE

The provisions of this Chapter shall apply to all corporations authorized herein and formed under the laws and sovereign power of the Tribe, whether before or after the enactment of this Code, and more specifically prescribed in Parts 2, 3 and 4 of Chapter One of the this Code. The Tribal Department of Commerce established in this Code shall have such authority as prescribed individually and collectively in Tribal Comprehensive Business Codes.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.102)

12.103 PURPOSE AND CONSTRUCTION

A. The purposes of this Chapter 1 are:

1. to encourage commerce by providing limitations on the liability of participants in incorporated enterprises;

2. to reform the laws of business corporations by allowing greater flexibility in the organization and operation of close corporations;

3. to ensure that corporate assets are available for the satisfaction of valid claims of

corporate creditors; and

4. to simplify, clarify and modernize the laws applicable to businesses created under the sovereign powers of the Tribe.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.103)

12.105 DEFINITIONS

In the Parts of this Chapter:

A. "**Articles**" means the articles of incorporation, charter or other documents evidencing the creation of a corporate entity pursuant to sovereign powers.

B. "**Close Corporation**" means a corporation, the shares of which are not publicly traded and are subject to restrictions on transfer.

C. "**Controlled**" as used in reference to corporations controlled by the Tribal Council, includes any corporation where the majority of its board of directors is chosen by the Tribal Council, as well as entities of the Tribe without boards of directors.

D. "**Deliver**" means delivery by mail, facsimile, overnight express, courier, hand delivery and service by process.

E. "**Distribution**" means a direct or indirect transfer of money or other property (except its own shares) or the incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption or other acquisition of shares; or otherwise.

F. "**For-Profit Corporation**" means a corporation of which the income is distributable for the benefit of its shareholders, and whose assets, upon dissolution, are distributable to its shareholders.

G. "**Non-Profit Corporation**" means a corporation in which no part of the income of the

corporation is distributable to any person by reason of that person's status as a member, director, officer or employee, except for reasonable wages for work performed.

H. "**Notice**" means written notice unless oral notice is reasonable under the circumstances.

I. "**Quorum**" means the number of members of a board or other body that must be present in order to make the board or other body competent to transact business in the absence of the other members.

J. "**Shares**" means the units into which the proprietary interests in a for-profit corporation are divided.

K. "**Shareholder**" means the person in whose name shares are registered in the records of the corporation.

L. "**Subscriber**" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.104)

12.106 TRIBAL DEPATMENT OF COMMERCE

A. The Tribal Department of Commerce is hereby established and shall oversee implementation of the Tribal Comprehensive Business Codes. The Tribal Council may direct an already existing Department to serve as the Department of Commerce unless and until the work load necessitates a separate Department. The Department of Commerce shall implement this Chapter, amendments thereto and the policies of the Tribal Council.

B. The Director of Commerce shall oversee the operations of the Department of Commerce and shall have authority to perform functions that are necessary and proper in order to administer and enforce the provisions of these Codes, including but not limited to the power:

1. To review and approve applications for incorporation and grant certificates of incorporation under Parts 2, 3 and 4 and any amendments to the Tribal Comprehensive

Business Codes;

2. To review and approve amended articles of incorporation and issue certificates of amendment;

3. To review and approve proposed articles of dissolution and to dissolve corporations administratively;

4. To accept for filing such other notices, reports and other documents from corporations;

5. To furnish, on request, copies of articles of incorporation, notices, reports and other non-confidential documents to the public upon the payment of reasonable fees;

6. To issue requests for filings from corporations in accordance with the provisions of these Codes;

7. To supervise the orderly dissolution of corporations formed under Tribal law;

8. To participate in actions in Tribal Court or any other court of competent jurisdiction for the enforcement of any of the provisions of the Tribal Comprehensive Business Codes;

9. To promulgate regulations pursuant to these Codes, formulate recommendations to submit to the Council for revisions of or amendments to the Comprehensive Business Codes, and take other actions necessary for the administration of the provisions of the Comprehensive Business Codes;

10. Upon approval by the Tribal Council, to enter into agreements or contracts with Indian tribes, businesses, and other parties to implement the Tribal Comprehensive Business Codes.

11. To establish an escrow account for the deposit of any assets of a dissolved corporation that should be transferred to an individual in accordance with 12.191.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.105)

12.107 STATUS OF CORPORATIONS

A. For the sole purposes of LTBB and federal taxation, regulatory jurisdiction and civil jurisdiction, the following corporate entities shall be entitled to all of the privileges and immunities of members of federally-recognized Indian tribes:

1. All for-profit corporations formed under Tribal law that are at least 51% owned by Indians who are members of federally-recognized tribes.

2. All non-profit corporations formed under Tribal law that have as their primary purpose the benefit of Tribal members, individuals who reside within the Reservation or any group of people comprised primarily of members of federally-recognized Indian tribes.

B. If a corporation's principal place of business is located on the reservation and the corporation is incorporated both under Tribal law and the laws of any state, then Tribal law and the Tribal charter documents shall take precedence over any conflicting state laws and charter documents in any dispute concerning the status of the corporation or the rights and obligations of any persons with respect to the corporation.

C. The Tribal Court shall have jurisdiction to decide all questions with respect to the status of corporations formed under Tribal law.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.106)

12.108 REPORTING REQUIREMENTS

The Director of Commerce may deliver to any corporation subject to the provisions of the Tribal Comprehensive Business Codes, such requests to inspect documents as may be reasonably necessary or proper to enable the Director to ascertain whether such corporation is complying with all of the provisions of the Codes. Such requests for inspection shall be answered within 30

days after mailing, and the answers shall be full and complete and shall be under oath.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.107)

12.109 JURISDICTION OF TRIBAL COURT

A. To the maximum extent consistent with due process of law, all corporations formed under Tribal law and all directors, officers and shareholders of such corporations, regardless of citizenship or Tribal membership shall be subject to the jurisdiction of the Tribal Court in all actions which arise out of the acts, omissions or participation of such persons in connection with the affairs of such corporations in accordance with these Codes.

B. This section shall not be construed as a waiver of sovereign immunity.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.108)

12.110 REGISTERED AGENT

At the time of incorporation all corporations formed under Tribal law shall appoint a person, known as a Registered Agent, to accept the service of judicial process on the corporation. The name and address of the Registered Agent shall appear in the initial Articles of said corporation. All corporations shall notify the Director of Commerce of any change in the name or address of the corporation's registered agent. All corporations formed under Tribal law are hereby deemed to consent to the appointment of the Director of Commerce as their agent for the acceptance of service of process in the event the corporation shall have failed to notify the Director of Commerce of any change in the name or the address of its registered agent. In such cases, service upon the Director of Commerce shall be deemed to be service on such corporation within 10 days thereof, provided, the Director of Commerce shall mail notice of such service to any incorporator, director, officer or shareholder of the corporation to the most recent address noted in the files of the Director of Commerce.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.109)

12.111 LIABILITY OF SHAREHOLDERS OR MEMBERS

No shareholder or member of any corporation formed under Tribal law, including those formed pursuant to Parts 2, 3 and 4 of Chapter One of the Tribal Comprehensive Business Codes, shall be liable to any creditor of the corporation by reason of his or her status as a shareholder or member, except insofar as said shareholder or member may be indebted to the corporation for unpaid loans or indebtedness for the purchase of shares.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.110)

12.112 CORPORATE NAME

A. The name of any for-profit corporation shall contain the words, "Corporation", "Incorporated ", or "Limited", or shall contain an abbreviation of one of such words.

B. The name of any non-profit corporation may contain the words "Incorporated", "Corporation", "Limited", "Association", "Fund", "Society", "Club", "Foundation", or “A Non-profit Corporation," or shall contain an abbreviation of one of such words.

C. No corporation formed under Parts 2, 3 and 4 of this Chapter One shall use any corporate name which is the same as, or deceptively similar to, any other corporation formed pursuant to the sovereign powers of the Tribe.

D. No for-profit or non-profit corporation that is privately owned or controlled shall use any name or make any representation that implies that it is a subdivision or enterprise of the Tribe.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.111)

12.113 FEES

The Director of Commerce shall be charged with determining and collecting fees as per a published schedule available upon request through the Department of Commerce:

A. for filing an application for incorporation and proposed articles of incorporation;

B. for filing an application for an amendment to the articles of incorporation;

C. for filing a statement of change of name or address of registered agent;

D. for filing any other statement or report of a corporation;

E. for furnishing a certified copy of any document, instrument report or other paper relating to a corporation;

F. for furnishing a certificate as to the status of a corporation or as to the existence or non-existence of facts relating to corporations;

G. for copies to any person or group, a charge; and

H. for furnishing a LTBB Odawa Tribal Business License in accordance with this Statute.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part One, 1.112)

PART TWO – TRIBAL CORPORATIONS

12.114 SCOPE

The provisions of this Chapter shall apply to each Tribal corporation, as defined in Section 12.116 of this Part of the Tribal Comprehensive Business Codes, formed under Tribal law, whether before or after the passage of this Chapter. The provisions of the Tribal Comprehensive Business Codes apply to tribal corporations operating pursuant to this Code where not inconsistent with the provisions contained herein.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.101)

12.115 PURPOSE AND CONSTRUCTION

A. The purpose of the Part are:

1. to establish a uniform system of creation and regulation of Tribal corporations for economic purposes;

2. to preserve the sovereign immunity and protect the credit of the Tribe;

3. to address the status of Tribal sovereign immunity with respect to Tribal corporations, as required by economic and governmental necessity;

4. to provide for insulation of Tribal corporations from shifts of tribal politics;

5. to provide stability and increase the stature of Tribal corporations in the commercial world; and

6. to ensure that Tribal corporations comply with Tribal law.

B. The provisions of this Statute shall be liberally construed and applied to promote its underlying purposes and policies.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.102)

12.116 DEFINTIONS

In addition to the definitions provided in the Preamble and General Definitions of this Statute the following terms, whenever used or referred to in this Statute, shall have the following respective meanings, unless different meanings clearly appear from the context:

A. "**Charter**" means the charter of a Tribal corporation, and includes approved articles of incorporation.

B. "**Tribal corporation**" means any for-profit businesses and non-profit organizations formed by the Tribal Council and wholly owned by the Tribe under this Part of these Codes.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.103)

12.117 STATUS OF A TRIBAL CORPORATION

A. For purposes of taxation, regulatory jurisdiction and civil jurisdiction, a Tribal corporation created by Tribal law shall be entitled to all of the privileges and immunities of the Tribe.

B. The Tribal Court shall have jurisdiction to decide all questions with respect to the status of a Tribal corporation formed under Tribal law.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.104)

12.118 PREEXISTING TRIBAL CORPORATIONS

A Tribal corporation or entity whose existence precedes passage of this Code shall continue to exist and to perform its several functions and shall be deemed to be a Tribal corporation subject to these Codes if it (a) was created by the Tribal Council; (b) is wholly-owned by the Tribe; and (c) is either a non-profit organization or a for-profit business. The Department of Commerce and its Director will coordinate the effort to bring such preexisting Tribal corporations or entities into compliance with these Codes.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.105)

12.119 SOVEREIGN IMMUNITY AND WAIVER

A. Sovereign Immunity of Tribal Corporation. A Tribal corporation is clothed by federal law with all the privileges and immunities of the Tribe, including sovereign immunity from suit in any state, federal or tribal court, except as specifically limited by the Tribal corporation charter. Nothing in this Statute shall be deemed or construed to be a waiver of sovereign immunity of a Tribal corporation from suit or to be a consent of the Tribal corporation or the Tribe, to the jurisdiction of the United States or of any state with regard to the business or affairs of the Tribal corporation or to any cause of action, case or controversy, except as provided herein.

B. Waiver of Sovereign Immunity of the Tribal Corporation. Tribal corporations may

effectuate limited waivers of sovereign immunity for conducting day-to-day business if the waivers are made in accordance with either of the following methods:

1. Tribal Council may expressly authorize a limited waiver of sovereign immunity on a case-by-case basis through a specific resolution.

2. Within the text of the Tribal corporation's organizational documents, the Tribal Council may authorize the Tribal corporation to waive its sovereign immunity pursuant to transactions or agreements that the Tribal corporation may execute in the course of its ordinary business affairs.

3. Any waivers of sovereign immunity made pursuant to (1) or (2) above shall only expose the assets owned or held by the Tribal corporation and shall not subject other Tribal assets to liability. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal corporation. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribal corporation subject thereto. Neither the power to sue and be sued provided in the charter of the Tribal corporation, nor any express waiver of sovereign immunity by resolution of the corporation's board of directors or the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon any property of the Tribal corporation other than property specifically pledged or assigned, or any property of the Tribe, or a consent to suit with respect to any land within the exterior boundaries of the Reservation or consent to the alienation, attachment or encumbrance of any such land.

C. Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence of the Tribal corporation are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Nothing in a tribal entity charter shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the jurisdiction of the United States or of any state with regard to the business affairs of the Tribal corporation or the Tribe or any cause of action, case or controversy, except as provided herein.

D. Credit of the Tribe. Nothing in a Tribal corporation charter, nor any activity of any

Tribal corporation, shall implicate or in any way involve the credit of the Tribe, except as provided in Section 12.120.

E. **Inclusion in Charter**. The provisions of subsections (A)-(D) of this Section shall be included in the charter of each Tribal corporation by effect of this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.106)

12.120 ASSETS OF A TRIBAL CORPORATION

A Tribal corporation shall have only those assets of the Tribe formally assigned to it by the Tribal Council, together with whatever assets it acquires from other sources. No activity of a Tribal corporation nor any indebtedness incurred by it shall implicate or in any way involve any assets of Tribal members or the Tribe not assigned in writing to the Tribal corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.107)

12.121 TRIBAL CORPORATION CHARTER

The charter for a Tribal corporation formed under this Statute shall set forth:

A. The name of the Tribal corporation.

B. The purposes for which the Tribal corporation is organized.

C. Provisions for establishment of a governing body and determining membership thereof, if applicable.

D. The powers of the Tribal corporation.

E. The provisions of Section 12.119 providing for sovereign immunity and waivers thereof.

F. Provisions and bylaws directing management of the Tribal corporation and regulation of its affairs.

G. Provisions designed to insulate the Tribal corporation from shifts of tribal politics.

H. Provisions, if applicable, describing the Tribal corporation's use of tribal attorneys or other attorneys approved by the Tribal Council.

I. A statement of the Tribal corporation's duration.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.108)

12.122 LIABILITY OF MEMBERS OF GOVERNING BODY OF TRIBAL CORPORATIONS

No member of the governing body or officers of any Tribal corporation formed under Tribal law shall be liable to any creditor of the Tribal corporation by reason of his or her status or service as a member or officer, or by reason of acts done in the course of his or her official duties.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.109)

12.123 DISPOSITION OF ASSETS

Upon dissolution of a Tribal corporation, its assets shall be distributed at the direction of the Tribal Council, or its designee, as follows:

A. Any property held upon an express condition requiring its return, transfer or other disposition shall be distributed accordingly;

B. Any property or assets required to be distributed or transferred in any manner according to federal law shall be distributed or transferred accordingly;

C. Claims of creditors of the Tribal corporation approved by the Tribal Council shall be paid accordingly from the assets or funds of the corporation; and

D. Remaining assets shall be transferred to another Tribal corporation, to the Tribe, or

distributed or transferred as the Tribal Council directs.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.110)

12.124 AMENDMENT OF TRIBAL CORPORATION CHARTER

Any Tribal corporation charter formed under Tribal law may be amended only by the Tribal Council.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.111)

12.125 MULTIPLE-YEAR AND LONG TERM LEASES AND PERMITS FOR TRIBAL CORPORATIONS

A. In order to facilitate the creation and maintenance of business and employment opportunities for Tribal corporations, the Tribe, Tribal members and Reservation residents, the Tribal Council may issue multiple-year and long term leases and permits for use of Tribal financial and natural resources, property, or may enter into other agreements with Tribal corporations as provided by Tribal laws and regulations.

B. The contents of leases and permits issued pursuant to this section shall include provisions for:

1. The date by which the resource will become available;

2. For permits and leases for resources that require annual quantities, the date each year by which such quantities will become available;

3. The total volume of resources covered by the lease or permit by total or annual amounts;

4. If applicable, the price of the resource covered by the lease and permit; and

5. Applicable environmental considerations that may be made part of the lease or

permit.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Two, 2.112)

PART THREE – FOR-PROFIT CORPORATIONS CODE

12.126 SCOPE OF CODE

A. Unless otherwise provided, the provisions of this Code apply to all for-profit corporations formed under Tribal law. Only close corporations may be formed under the provisions set forth in this Code. This Code shall allow all individuals, whether Indian or non-Indian, to participate in the formation, management and ownership of any corporation created under this Code, unless provided for otherwise in the corporation's organizational documents.

B. Any individual, Indian or non-Indian, as defined in Chapter One, Part One of the Tribal Comprehensive Business Codes, over the age of 18 years who wishes to incorporate a for-profit business may apply to the Director of Commerce for the issuance of a certificate of incorporation under this Code, provided that the articles of incorporation shall provide that all of the issued shares of the corporation are to be subject to one or both of the following restrictions on transfer of shares:

1. A shareholder must offer to the corporation or to one or more shareholders of the corporation or to any person who is a member of any class designated by the corporate charter or to any combination of the foregoing, a prior opportunity to acquire such shares; or

2. The corporation, or the holders of shares of a particular class of the corporation must consent to any proposed transfer of the shares.

C. The Tribal Council retains the authority to issue corporate charters for business corporations not eligible to be formed under this Code.

D. The provisions of this Code shall be applied to promote its underlying purposes and policies.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.101)

12.127 DEFINITIONS OF TERMS USED IN THIS CODE

In addition to the definitions provided in the Preamble and General Definitions and Part One of this Code, the following definitions apply in this Part:

A. "**Corporation**" means a corporation formed under this Part 3 of this Code;

B. "**Director**" means a member of a group elected or otherwise authorized to govern the affairs of the corporation, and includes trustees, governors, regents, and other similar terms;

C. "**Member**" means (without regard to what a person is called in the articles or bylaws) any person who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors. A person is not a member solely by virtue of any of the following:

1. any rights such person has as a member of the staff or student body of any school or college to vote for a director;

2. any rights such person has to designate a director or directors; or

3. any rights such person has as a director.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.102)

12.128 GENERAL POWERS OF BUSINESS CORPORATIONS

Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation the power:

A. to sue and be sued, complain and defend in its corporate name, except that nothing in this Part shall limit the application of Section 12.119 of the Tribal Corporations Code;

B. to have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing of affixing it or in any other manner reproducing it;

C. to make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Tribe, for managing the business and regulating the affairs of the corporation;

D. to purchase, receive, lease, or acquire, whether by gift, devise, bequest or otherwise, and to own, hold, improve, use and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

E. to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

F. to purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of any other entity;

G. to make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises or income;

H. to lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

I. to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust or other entity;

J. to conduct its business, structure and restructure its operations, locate offices, and exercise the powers granted by this Code within or without the Reservation;

K. to elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

L. to make donations for the public welfare or for charitable, scientific, or educational purposes;

M. to transact any lawful business that will aid government policy;

N. to make payments or donations, or do any other act, not inconsistent with law, that furthers the business affairs of the corporation;

O. to cease its corporate activities and surrender its corporate franchise.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.103)

12.129 DEFENSE OF ULTRA VIRES

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

A. In a proceeding by a shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss of damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance or such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

B. In a proceeding by the corporation, whether acting directly or through a receiver, trustee,

or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

C. In a proceeding by the Director of Commerce, as provided in this Code, to dissolve the corporation, or to enjoin the corporation from the transaction of unauthorized business.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.104)

12.130 ARTICLES OF INCORPORATION

A. The articles of incorporation for any corporation formed under this Code shall set forth:

1. The name of the Corporation.

2. The period of duration, which may be perpetual or for a stated term of years.

3. The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this Code.

4. The aggregate number of shares that the corporation shall have authority to issue, and if such shares are divided into classes, the number of shares in each class.

a. If the shares are divided into classes, the designation of each class and a statement to the preference, limitation and relative rights in respect of the shares of each class.

b. If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

5. Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

6. The name and address of its initial registered agent and the address of its principal office.

7. A description of any election to operate without a board of directors under Section 12.147 of this Code.

8. The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify; provided, however, that it all persons who have agreed to purchase shares shall enter into a written agreement under Section 12.147 of this Code to operate the corporation without a board of directors, that fact shall be recited in the articles of incorporation and the names and addresses of the persons who are to be voting shareholders shall be listed instead.

9. The name and address of each incorporator.

10. One or more of the restrictions on the transfer of shares described in Section 12.126 of this Code and all other restrictions on the transfer of shares.

11. The following notice, conspicuously displayed:

> THIS IS A CLOSE CORPORATION FORMED PURSUANT TO THE LTBB ODAWA TRIBAL COMPREHENSIVE BUSINESS CODES, TITLE XX. THE RIGHTS OF SHAREHOLDERS IN THIS CORPORATION MAY DIFFER MATERIALLY FROM THE RIGHTS OF SHAREHOLDERS IN OTHER CORPORATIONS. COPIES OF DOCUMENTS WHICH RESTRICT TRANSFERS AND AFFECT VOTING AND OTHER RIGHTS MAY BE OBTAINED BY A SHAREHOLDER ON WRITTEN REQUEST TO THE CORPORATION.

B. In addition to the provisions required under this section, the articles of

incorporation may also contain provisions not inconsistent with Tribal law regarding:

1. The direction of the management of the business and the regulation of the affairs of the corporation;

2. The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders;

3. The par value of any authorized shares of class of shares; and

4. Any other provision that this Code requires or permits to be set forth in the corporation's bylaws.

C. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.105)

12.131 FILING ARTICLES OF INCORPORATION

Duplicate originals of the articles of incorporation shall be delivered to the Director of Commerce. If the Director of Commerce finds that the articles of incorporation conform to this Code, he/she shall, when all the fees have been paid in accordance with this Code:

A. Endorse on each of such originals the word "Filed" and the effective date of the filing thereof.

B. File one of such originals.

C. Issue a certificate of incorporation to which the other original shall be affixed.

The certificate of incorporation together with the original articles of incorporation affixed thereto shall be returned to the incorporators or their representatives.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.106)

12.132 EFFECT OF FILING THE ARTICLES OF INCORPORATION – CERTIFICATE OF INCORPORATION

Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Code, except as against the Tribe in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.107)

12.133 ORGANIZATION MEETNG OF DIRECTORS

After the issuance of the certificate of incorporation, an organizational meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the directors named in the articles of incorporation for the purpose of adopting bylaws not inconsistent with this Code, electing officers, and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director signs an instrument that states the action so taken.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.108)

12.134 AUTHORIZED SHARES

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes with such designations, preferences, limitations, relative rights and special voting rights as deemed appropriate for the shares of any class to the extent not inconsistent with the provisions of

the Tribe. Unless otherwise provided in the articles of incorporation, such shares shall carry preemptive rights.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

A. Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

B. Entitling the holders thereof to cumulative, non-cumulative or partially cumulative dividends.

C. Having preference over other class or classes of shares as to the payment of dividends.

D. Having preference in the assets of the corporation over any other class of shares or classes of shares upon the voluntary or involuntary liquidation of the corporation.

E. Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.109)

12.135 CERTIFICATES REPRESENTING SHARES

A. Shares of a corporation may or may not be represented by certificates. Unless this Code or another statute expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates.

B. At a minimum each share certificate must state on its face:

1. the name of the issuing corporation and that it is organized under the laws of the Tribe;

2. the name of the person to whom issued; and

3. the number and class of shares and the designation of the series, if any, the certificate represents.

C. If the issuing corporation is authorized to issue different classes of shares of different series within a class, then the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the board of directors to determine variations for future series) must be summarized on the front or back of each certificate. Alternatively, each certificate must state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

D. Each share certificate (1) must be signed (either manually or in facsimile) by two officers designated in the bylaws or by the board of directors and (2) must bear the corporate seal or its facsimile.

E. If the person who signed (either manually or in facsimile) a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

F. No certificate shall be issued for any share until the consideration established for its issuance shall have been received by the corporation.

G. Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.110)

12.136 SUBSCRIPTION FOR SHARES

A subscription for shares of a corporation to be organized shall be in writing and shall be

irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all subscribers consent to the revocation of such subscription.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.111)

12.137 DETERMINATION OF PRICE – PAYMENT OF SHARES

A. The powers granted in this section are subject to restriction by the articles of incorporation.

B. Shares may be issued at price determined by the board of directors, or the board may set a minimum price or establish a formula or method by which the price may be determined.

C. Consideration for shares may consist of cash, promissory notes, services performed, contracts for services to be performed, or any other tangible or intangible property. If shares are issued for other than cash, the board of directors shall determine the value of the consideration.

D. Shares issued when the corporation receives the consideration determined by the board are validly issued, fully paid, and non-assessable.

E. A good faith judgment of the board of directors as to the value of the consideration received for shares is conclusive.

F. The corporation may place shares issued for a contract for future services of a promissory note in escrow, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed or the note is paid. If the services are not performed or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or in part.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.112)

12.138 EXPENSES OF ORGANIZATION, REORGANIZING AND FINANCING

The reasonable charges and expenses of organization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares assessable.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.113)

12.139 STOCKHOLDER'S LIABILITY – CONSIDERATION FOR SHARES

A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or were to be issued, except that he or she may become personally liable by reason of his or her own acts or conduct.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.114)

12.140 STATED CAPITAL; DETERMINATION OF AMOUNT

A. The consideration received by a corporation for its shares shall constitute stated capital. If the shares have been assigned a par value, the consideration received shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

B. The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

C. Dividends shall not be paid out of stated capital.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.115)

12.141 PAYMENT OF DEFICITS OUT OF CAPITAL SURPLUS OR EARNED SURPLUS

A corporation may, by resolution of its board of directors, apply any or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.116)

12.142 INSOLVENT CORPORATION PROHIBITED FROM PURCHASING ITS OWN SHARES

No purchase of or payment for its own shares shall be made by a corporation at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.117)

12.143 SHARES TRANSFER RESTRICTIONS

A. Except as otherwise provided in the articles of incorporation, no interest in shares of a corporation formed under this Code may be transferred, by operation of law or otherwise, whether voluntary or involuntary.

B. Subsection (A) above shall not apply to a transfer:

1. to the corporation or to any other holder of the same class of shares;

2. to members of the holder's immediate family, or to a trust, all of whose beneficiaries are members of the holder's immediate family. A holder's immediate family shall include his or her spouse, parents, lineal descendants (including any adopted children and stepchildren) and spouse of any lineal descendants, and brother and sisters;

3. which has been consented to in writing by all of the holders of the corporation's common shares having voting rights;

C. to an executor or administrator upon the death of a shareholder or to a trustee or receiver as a result of a bankruptcy, insolvency, dissolution, or similar proceeding brought by or against a shareholder;

D. by merger, consolidation or a share exchange of existing shares for other shares of a different class or series in the corporation;

E. by a pledge as collateral for a loan that does not grant the pledgee any voting rights possessed by the pledgor.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.118)

12.144 OFFER TO SELL SHARES

A. Any person desiring to transfer shares in a transaction that is prohibited by Section 12.143 (a) and is not exempt under Section 12.143 (b) shall obtain a written offer from a third party who meets the requirements in paragraphs (1) and (2) of this subsection to purchase such shares for cash and shall deliver written notice of the third party offer to the corporation's registered office stating the number and kind of shares, the offering price, the other terms of the offer, and the name and address of the third party offeror. No transfer shall be made to a third party unless:

1. the third party is eligible to become a qualified shareholder under the provisions of any federal, state or Tribal tax statute that the corporation has elected to be subject to and the third party shall agree in writing not to take any

action to terminate the election without the approval of the remaining shareholders;

2. the transfer to the third party will not result in the imposition of the personal holding company tax or any similar Tribal, state or federal penalty tax on the corporation.

B. The notice specified in subsection (a) shall constitute an offer to sell the shares to the corporation on the terms of the third party offer. Within 20 days after the corporation receives the notice, the corporation shall call a special meeting of shareholders which shall be held not more than 40 days after the call, for the purpose of determining whether to purchase all (but not less than all) of the offered shares. Approval of action to purchase shall be by affirmative vote of the holders of a majority of the shares entitled to vote excluding the offered shares. With the consent of all the shareholders entitled to vote for the approval, the corporation may allocate some or all of the shares to one or more shareholders or to other persons, but if the corporation has more than one class of shares, the remaining holders of the class of shares being offered for sale shall have a first option to purchase the shares that are not purchased by the corporation, in proportion to their shareholdings or in such proportion as shall be agreeable to those desiring to participate in the purchase.

C. Written notice of the acceptance of the shareholder's offer shall be delivered or sent to the offering shareholder at the address specified in his notice to the corporation, or in the absence of any specification, at his last known address as reflected in the records of the corporation, within 75 days after receipt of the shareholder's offer. Notice sent by U.S. mail shall be timely if it is deposited in the mail prior to midnight of the 75th day following the date the offer from the shareholder was received by the corporation. If the notice contains terms of purchase different from those contained in the shareholder's notice, the different terms shall be deemed a counter-offer and unless the shareholder wishing to transfer his or her stock accepts in writing the counter-offer, or the shareholder and the purchaser(s) otherwise resolve by written agreement the differences between the offer and counter offer within 15 days of receipt by the shareholder of the notice of acceptance, the notice containing the counter offer shall be ineffective as an acceptance.

D. If a contract to sell is created under subsection (C), the shareholder shall make delivery of all the certificates for the stock so sold, duly endorsed, within 20 days of receipt of the notice of acceptance, or in the case of un-certificated securities, shall within the 20 day period deliver to the corporation the required instruction requesting that the transfer be made. Breach of any of the terms of the contract shall entitle the non-breaching party to any remedy at law or equity allowed for breach of a contract, including, without limitation, specific performance.

E. If the offer to sell is not accepted pursuant to subsections (C) and (D), the shareholder shall be entitled to transfer to the third party offeror all (but not less than all) of the offered shares within 120 days after delivery of the shareholder's notice specified in subsection (C) in accordance with the terms specified in the shareholder's notice.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.119)

12.145 TRANSFER OF SHARES IN BREACH OF TRANSFER RESTRICTIONS

Any attempted transfer of shares in a corporation formed under this Code in violation of any transfer restriction binding on the transferee shall be ineffective. Any attempted transfer of share in a corporation formed under this Code in violation of any transfer restriction not binding on the transferee because the notice required by Sections 12.143(B)(2) of this Statute has not been given shall give the corporation the option, exercisable by notice and payment within 30 days after presentation of the shares for registration in the name of the transferee, to purchase the shares from the transferee for the same price and terms.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.120)

12.146 SALE OF ASSETS

Unless otherwise provided in the articles of incorporation, a sale, lease, exchange, or other disposition, not made in the usual and regular course of its business, of all, or substantially all, the property and assets, with or without the good will, of a corporation formed under this Code shall require the affirmative vote of all of the holders of

outstanding shares of each class of shares of the corporation, whether or not otherwise entitled to vote thereon.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.121)

12.147 ELECTION NOT TO HAVE A BOARD OF DIRECTORS

A. A corporation formed under this Code may operate without a board of directors if the articles of incorporation contain a statement to that effect. In this case, the following shall apply:

B. All corporate powers shall be exercised by and the business affairs of the corporation shall be managed under the direction of the shareholders of the corporation, and all powers and duties conferred or imposed upon the board or directors by this Code shall be exercised by the shareholders.

C. No liability that would otherwise be imposed on the directors shall be imposed on a shareholder by virtue of any act or failure to act unless the shareholder was entitled to vote on the action.

D. Any requirement that an instrument filed with any government agency contain a statement that a specified action has been taken by the board of directors shall be satisfied by a statement that the corporation is formed under this Code having no board of directors and that the action was duly approved by the shareholders.

E. The shareholders by resolution may appoint one or more shareholders to sign any documents as "Designated Directors".

F. Unless the articles of incorporation otherwise provide, any action requiring director approval or both director and shareholder approval shall be sufficiently authorized by shareholder approval and any action otherwise requiring a vote of the majority or greater percentage of the board of directors shall require the affirmative vote of the holder of a majority, or such greater percentage, of the shares entitled to vote thereon.

G. Any amendment to the articles of incorporation to include provisions authorized by Section 12.147(A) must be approved by the holders of all the shares of the corporation whether or not they are otherwise entitled to vote thereon, or all the subscribers to such shares, or the incorporators, as the case may be. Any amendment to the articles of incorporation to delete the election must be approved by the affirmative vote of the holders of all of the shares of the corporation whether or not they are otherwise entitled to vote thereon.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.122)

12.148 AGREEMENTS AMONG SHAREHOLDERS

A. The shareholders of a corporation formed under this Code may by unanimous action enter into one or more written agreements to regulate the exercise of the corporate powers and the management of the business and affairs of the corporation or the relations among the shareholders of the corporation.

B. Any agreement authorized by this section shall be valid and enforceable according to its terms notwithstanding the elimination of the board of directors, any restriction on the discretion or powers of the board of directors, or any proxy or weighted voting rights given to directors and notwithstanding that the effect of the agreement is to treat the corporation as if it were a partnership or that the arrangement of the relations among the shareholders or between the shareholders and the corporation would otherwise be appropriate only among partners.

C. If the corporation has a board of directors, the effect of an agreement authorized by this section restricting the discretionary powers of the directors shall be to relieve the directors of, and impose upon the person or persons on whom such discretion or powers are vested, the liability for acts or omissions imposed by law upon directors to the extent that the discretion of powers of the directors are controlled by the agreement.

D. Any election not to have a board of directors in an agreement authorized by this section shall not be valid unless the articles of incorporation contain a statement to that

effect in accordance with Section 12.147 of this Code.

E. A shareholder agreement authorized by this section shall not be amended except by the unanimous written consent of the shareholders unless otherwise provided in the agreement.

F. Any action permitted by this section to be taken by shareholders may be taken by the subscribers to shares of the corporation if no shares have been issued at the time of the agreement authorized by the section.

G. Provisions otherwise required to be stated in corporate bylaws may be contained with equal effect in a shareholder's agreement.

H. This section shall not prohibit any other agreement among two or more shareholders not otherwise prohibited by law.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.123)

12.149 SHAREHOLDERS' RIGHT TO INSPECT RECORDS

A. A corporation shall keep at least the following records:

1. Minutes of all shareholders, meetings and board of director's meetings;

2. Appropriate accounting records;

3. Names and addresses of all shareholders and the number and class of shares held;

4. Current articles of incorporation, bylaws and shareholders' agreements described in Section 12.148;

5. Resolutions adopted by the board of directors.

B. Upon five days written notice, a shareholder of the corporation is entitled to inspect and copy records referred to in Section 12.149(A) above, subject to the following requirements:

1. The shareholder's demand must be made in good faith and for a proper purpose;

2. The shareholder must describe with reasonable particularity his or her purpose and the records he or she desires to inspect;

3. The records must be directly connected with his or her purpose;

4. The corporation may impose a reasonable charge covering the costs of labor and materials for copies of documents made for the shareholder; provided, however, that the charge may not exceed any estimates of such costs provided to the shareholder.

C. A shareholder's agent or attorney has the same inspection and copying rights as the shareholder he or she represents.

D. A corporation may take reasonable steps to prevent the dissemination of trade secrets, propriety information or other commercially-sensitive information to persons other than shareholders.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.124)

12.150 ANNUAL MEETING

A corporation formed under this Code may establish in its articles of incorporation or bylaws, or in a shareholders' agreement authorized by Section 12.148, a date at which an annual meeting of shareholders shall be held, if called, and if not so established the date shall be the first business day after May 31st. Unless otherwise provided in the articles of incorporation, no annual meeting need be held unless a written request thereof is delivered to the corporation by any shareholder not less than 30 days before the date

specified for the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.125)

12.151 SPECIAL MEETINGS OF SHAREHOLDERS

A. A corporation shall hold a special meeting of shareholders:

B. If authorized by the board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

C. If the holders of at least 10 percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the corporation's secretary one or more written demands for the meeting describing the purposes for which it is to be held.

D. Special shareholders' meetings may be held on or off the Reservation, at the place stated in accordance with the bylaws. If no place is stated in the bylaws, special meetings shall be held at the corporation's principal office.

E. Only business within the purposes described in the notice sent to shareholders may be conducted at a special shareholders' meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.126)

12.152 NOTICE OF MEETING OF SHAREHOLDERS

A. A corporation shall notify shareholders of the date, time and place of each annual and special shareholders meeting no fewer than 10 or more than 60 days before the meeting. Unless this Code or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting. Notice shall be given by mail or telephone, using the most recent address or telephone number supplied to the corporation by each shareholder.

B. If an annual or special shareholders' meeting is adjourned to a different date, time and place, notice need not be given of the new date, time or place if that information is announced before meeting adjournment.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.127)

12.153 SHAREHOLDER SALE OPTION AT DEATH

A. If the articles of incorporation of a corporation formed under this Code provide that this section shall apply to the corporation, then the executor or administrator of the estate of any deceased shareholder shall, subject to any directions in the deceased shareholder's last will and testament, have the right to require the corporation to elect either to purchase or cause the purchase of all, but not less than all, of the shares of the decedent pursuant to Section 12.153(D)-(F), or to be dissolved.

B. A modification of the provisions in this section shall be valid if it is set forth or referred to in the articles of incorporation.

C. Any amendment to the articles of incorporation to provide that this section shall apply to, delete or modify the provisions of this section shall be approved by the unanimous vote of the holders of each class of shares of the corporation affected by the proposed deletion on modification, whether or not they are otherwise entitled to vote thereon; but if the corporation has no shareholders at the time of the proposed amendment, by the unanimous vote of all the subscribers of all of the incorporators, as the case may be.

D. A person exercising rights under this section shall, within six months after the death of the beneficial owner of shares, deliver a written notice to the corporation's registered office specifying the number and class of all shares beneficially owned by the deceased shareholder and stating that an offer by the corporation to purchase such shares is being solicited pursuant to this section. Within 20 days after receipt of the notice, the president of the corporation shall call a special meeting of shareholders, which shall be held not more than 40 days after the call, for the purpose of determining whether to offer to purchase the shares. Approval of an action to offer to purchase the shares shall be by

affirmative vote of the holders of a majority of shares entitled to vote, excluding the shares covered by the notice. With the consent of all the shareholders entitled to vote for approval, the corporation may allocate some or all of the shares to one or more shareholders, or to other persons, but if the corporation has more than one class of shares, the remaining holders of the class of shares being offered for sale shall have first option to purchase the shares that are not purchased by the corporation in proportion to their shareholdings or such proportion as shall be agreeable to those desiring to purchase. Written notice of any offer to purchase approved by the shareholders, or that no offer to purchase was approved, shall be delivered or sent to the person exercising his or her rights under this section within 75 days after delivery of the notice soliciting the offer to purchase. Any offer to purchase shall be accompanied by copies of the corporation's end of year balance sheets, and profit and loss statements for the preceding two accounting years and any available interim balance sheet and profit and loss statement.

E. To the extent the price and other terms for purchasing shares of a transferring shareholder by the corporation or remaining shareholders are fixed or are to be determined pursuant to provisions in the articles of incorporation, the bylaws of the corporation, or by written agreement, those provisions shall be binding, except that in the event of a default in any payment due, Section 12.153(H) shall apply and the person exercising his or her rights under this section shall have the right to petition for dissolution of the corporation. Any offer to purchase shall be accepted or rejected in writing within 15 days.

F. If an offer to purchase is rejected, or if no offer to purchase is made, the person exercising rights under this section may commence an action in the Tribal Court. The jurisdiction of the court shall be plenary and exclusive. The corporation shall be made a party defendant in such action and shall, at its expense, give notice of the commencement of the action to all of its shareholders and such other persons as the court may direct. The court shall proceed to determine the fair value of the shares of the person exercising the rights under this section by considering the going concern values of the corporation, any agreement among the same or all of the shareholders fixing a price or specifying a formula for determining the value of the corporation's shares for any purpose, the recommendations of any appraiser appointed by the court, any legal constraints on the ability of the corporation to acquire the shares to be purchased, and other relevant

evidence. The court shall then enter an order requiring the corporation to cause the purchase of the shares at fair value and on the other terms so determined or to give such person the right to have the corporation dissolved.

G. Upon the petition of the corporation, the court may modify its decree to change the terms of payment if it finds that the changed financial or legal ability of the corporation or other purchasers of the shares to complete the purchase justifies a modification. Any person making a payment in order to prevent or insure against any default by any purchaser shall be entitled to recover the excess payment from the defaulting person.

H. If the corporation or other purchaser fails for any reason to make any payment specified in the court decree within 30 days after the due date for such payment, the court shall, upon the petition of the person to whom the payment is due and in the absence of good cause shown by the corporation, enter a decree dissolving the corporation.

I. If the fair value of the shares as determined by the court does not materially exceed the last offer made by the corporation prior to the commencement of an action brought pursuant to subsection (F) and the court finds that the failure of the person exercising rights under this section to accept the corporation's last offer was arbitrary, baseless, or not otherwise in good faith, the court may assess all or a portion of the costs and expenses of the action against such person.

J. If the fair value of the shares as determined by the court materially exceeds the amount of the last offer made by the corporation prior to the time a petition was filed pursuant to subsection (F) and the court finds that the corporation's last offer was arbitrary, baseless, or was otherwise not made in good faith, the court may assess all or a portion of the costs and expenses of the action against the corporation.

K. Expenses assessable under subsections (I) and (J) shall include reasonable compensation for and reasonable expenses of any appraisers appointed by the court, and the reasonable fees and expenses of counsel for and experts employed by any party.

L. Except as provided in subsections (I) and (J), the legal costs of an action filed

pursuant to subsection (F) shall be assessed on an equal basis between the corporation and any party exercising rights under this section, and all other fees and expenses shall be borne by the party incurring the fees and expenses.

M. Any shareholder may waive his or her and his or her estate's and heirs' rights under this section by a signed writing.

N. This section shall not be construed to prohibit any other agreement not prohibited by law that provides for the purchase of shares of the corporation, nor shall it prevent a shareholder from enforcing any other remedy he or she may have.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.128)

12.154 ACTIONS BY SHAREHOLDERS OF CLOSE CORPORATIONS

A. Any shareholder of record, the beneficial owner of share held by a nominee, or the holder of voting trust certificates of a corporation formed under this Code may file a petition in the Tribal Court for relief on the grounds that:

B. The directors or those in control of the corporation have or will have conducted the business and affairs of the corporation in a manner which is not in good faith and which is unfair or oppressive as to the petitioner. Such conduct shall include, but shall not be limited to, unfairly depriving the shareholder of the benefit of his or her investment in preference to other shareholders by failing to pay dividends that in good faith ought to be paid, or using the payment of wages as an unfair device to divert income from the petitioner; or

C. Conditions exist that would be grounds for judicial dissolution of the corporation under Section 12.188.

D. In determining whether one or more of the conditions specified in subsection (A) above exist, the court shall give due consideration to the strict fiduciary duty that shareholders of corporations formed under this Code owe to one another. Such fiduciary duty shall include good faith, fairness and loyalty.

E. The jurisdiction of the Tribal Court shall be plenary and exclusive. If the Tribal Court finds that one or more of the conditions specified in subsection (A) exist, it shall grant such relief as in its discretion it deems appropriate, including, without limitation, orders granting one or more of the following types of relief:

1. Canceling, altering or enjoining any resolution or other act of the corporation;

2. Directing or prohibiting any act of the corporation or of shareholders, directors, officers, or other persons party to the action;

3. Canceling or altering any provision contained in the articles of incorporation or by-laws of the corporation;

4. Removing from office any director or officer, or ordering that a person be appointed a director of officer;

5. Requiring an accounting with respect to any matters in dispute;

6. Appointing a custodian to manage the business and affairs of the corporation;

7. Appointing a provisional director who shall have all the rights, powers, and duties of a duly elected director and shall serve for the term and under conditions established by the Tribal Court;

8. Ordering the payment of dividends;

9. If the Tribal Court finds the relief specified in paragraphs (1) through (8) is or would be inadequate or inappropriate, ordering that the corporation is liquidated and dissolved unless either the corporation or one or more of the remaining shareholders has purchased all of the shares of another shareholder at their fair value by a designated date, with the fair value and terms of the purchase

to be determined as provided by Section 12.154(E). In the event the share purchase is not consummated and the corporation is dissolved and liquidated, any shareholder whose shares were to be purchased shall have the same rights and priorities in the assets of the corporation as would have been the case had no purchase been ordered by the Tribal Court.

10. Awarding damages to any aggrieved party in addition to or in lieu of any other relief granted.

11. In determining whether to enter a judgment under paragraph (9), the Tribal Court shall take into consideration the financial condition of the corporation but shall not refuse to order liquidation solely on the grounds that the corporation has earned surplus or current operating profits.

F. If the Tribal Court determines that any party to a proceeding brought under this section has acted arbitrarily, capriciously, or otherwise not in good faith, it may award reasonable expenses, including attorneys, fees and the costs of any appraisers of other experts, to one or more of the other parties.

G. If the Tribal Court orders relief pursuant to subsection (E)(9), the court shall:

1. Proceed to determine the fair value of the shares to be purchased, considering the going concern values of the corporation, any agreement among the same or all of the shareholders fixing a price or specifying a formula for determining the value of the corporation's shares for any purpose, the recommendations of any appraiser appointed by the Tribal Court, any legal constraints on the ability of the corporation to acquire the shares to be purchased, and other relevant evidence.

2. Enter a decree specifying the identity of the purchaser and the terms of the purchase found to be proper under the circumstances, including such provisions as are deemed proper concerning payment of the purchase price in two or more installments, payment of interest on the installments, subordination of the obligation to the rights of other creditors of the corporation, security for the

deferred purchase price, and a covenant not to compete or other restriction on the selling shareholder.

3. Order that the selling shareholder shall, concurrently with the payment of the purchase price, or in the event of an installment purchase concurrently with the payment of the initial payment called for in the order make delivery of all his or her shares and from that date have no rights or claims against the corporation or its directors, officers, or shareholders by reason of his or her having been a director, officer, or shareholder of the corporation, except the right to receive the unpaid balance of the amount awarded under this section and any amounts due under any agreement with the corporation for the remaining shareholders that are not terminated by the court's order.

4. Order that if the purchase is not completed in accordance with the court's decree, the corporation shall be liquidated.

H. Except as otherwise provided in subsection (G), the rights of a shareholder to file a proceeding under this section are in addition to and not in lieu of any other rights or remedies the shareholder may have.

I. No shareholder shall be eligible to file an action under this section until he or she shall have exhausted all non-judicial remedies for resolution of the issues in dispute.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.129)

12.155 LIMITED LIABILITY

The failure of a corporation to observe usual corporate formalities or requirements relating to the exercise of its corporate powers or the management of its business and affairs shall not be grounds for imposing personal liability on the shareholders for obligations of the corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.130)

12.156 DUTIES OF BOARD OF DIRECTORS

Unless the election under Section 12.147 of this Code to operate without a board of directors has been made, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitations set forth in the articles of incorporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.131)

12.157 QUALIFICATIONS OF DIRECTORS

The articles of incorporation or bylaws may prescribe qualifications for directors. Directors and shareholders shall have no residency requirements. A director shall be at least 18 years of age.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.132)

12.158 TERMS OF DIRECTORS

A. The terms of the initial directors of the corporation expire at the first shareholders' meeting at which directors are elected.

B. The terms of all other directors expire at the next annual shareholders' meeting following their election unless the articles of incorporation provide that their terms be staggered.

C. A decrease in the number of directors does not shorten an incumbent director's term.

D. The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

E. Despite the expiration of a director's term, he or she continues to serve until his or her successor is elected and qualifies or until there is a decrease in the number of

directors.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.133)

12.159 REMOVAL OF DIRECTORS BY SHAREHOLDERS

A. The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

B. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him or her.

C. A director may be removed by the shareholders only at a meeting called for that purpose and the meeting notice must state that the purpose or one of the purposes, of the meeting is removal of the director.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.134)

12.160 REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING

A. The Tribal Court may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least 10 percent of the outstanding shares of any class if the court finds that:

1. the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation; and

2. removal is in the best interest of the corporation.

B. If the Tribal Court removes the director it may bar the director from reelection for a period prescribed by the Tribal Court.

C. If shareholders commence a proceeding under subsection (A), they shall make the corporation a party defendant.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.135)

12.161 MEETINGS

A. The board of directors may hold regular or special meetings on or off the Reservation.

B. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.136)

12.162 ACTION WITHOUT MEETING

A. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Code to be taken at the board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

B. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

C. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.137)

12.163 NOTICE OF MEETING

A. Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held as provided in the bylaws without notice to directors of the date, time, place, or purpose of the meeting.

B. Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meting unless required by the articles of incorporation, bylaws or the provisions of this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.138)

12.164 WAIVER OF NOTICE

A. A director may waive any notice required by this Code, the articles of incorporation or the bylaws before or after the date and time stated in the notice. Except as provided by Subsection (B), the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

B. A director's attendance at or participation in a meeting waives any required notice to him or her unless that director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.139)

12.165 QUORUM AND VOTING

A. Unless the articles of incorporation or bylaws require a greater number, a quorum of the board of directors consists of a majority of the number of directors.

B. The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no less than one-third of the number of directors.

C. If a quorum is present when a vote is taken, the affirmative majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

D. A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action unless:

1. he or she objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting;

2. his or her dissent or abstention from the action is noted in the minutes of the meeting; or

3. he or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.140)

12.166 GENERAL STANDARDS FOR DIRECTORS

A. A director shall discharge his or her duties as a director, including duties as a member of a committee:

1. in good faith;

2. with the care that an ordinarily prudent person in a like position would exercise under similar circumstances; and

3. in a manner he or she reasonably believes to be in the best interests of the corporation.

B. In discharging his or her duties a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. one or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

2. legal counsel, public accountants, professionals or other experts the director deems to be reliable and competent in the matters presented; or

3. a committee of the board of directors of which he or she is not a member if the director believes the committee merits confidence.

C. A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

D. A director is not liable for any action taken as a director, of any failure to take any action, if he or she performed the duties of office in conjunction with this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.141)

12.167 DIRECTOR CONFLICT OF INTEREST

A. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. Any conflict of interest transaction is voidable by the corporation because of the director's interest in the transaction unless any one of the following is true:

1. the material facts of the transaction and the director’s interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

2. the material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction; or

3. the transaction was fair to the corporation.

B. For the purposes of this section, a director of the corporation has an indirect interest in the transaction if:

1. another entity in which he or she has a material financial interest or in which he or she is a general partner is a party to the transaction; or

2. another entity of which he or she is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

C. For the purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved or ratified as provided in that subsection.

D. For the purposes of subsection (A)(2), a conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (B)(1), may not be counted in a vote of shareholders to determine whether to authorize, approve or ratify a conflict of

interest transaction under subsection (A)(2). The vote of those shares, however, is counted in determining whether a transaction is approved under other sections of this Code. A majority of shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.142)

12.168 LIABILITY FOR UNLAWFUL DISTRIBUTIONS

A. Unless he or she complies with the applicable standards of conduct described in Section 12.167, a director who votes for or assents to a distribution made in violation of this Code or the articles of incorporation is personally liable to the corporation for the amount of distribution that exceeds what could have been distributed without violating this Code or the articles of incorporation.

B. A director held liable for an unlawful distribution under subsection (A) is entitled to contributions:

1. from every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in Section 12.166; and

2. from each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of this Code or the articles of incorporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.143)

12.169 OFFICERS

A. A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

B. A duly appointed officer may appoint one or more officers or assistant officers if

authorized by the bylaws or the board of directors.

C. The bylaws or the board of directors shall delegate to one of the officers responsibility for preparing minutes of the board and shareholder, meetings and for authenticating records of the corporation.

D. An individual may simultaneously hold more than one office in the corporation.

E. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of director to prescribe the duties of other officers.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.144)

12.170 STANDARDS OF CONDUCT FOR OFFICERS

A. An officer with discretionary authority shall discharge his or her duties under that authority:

1. in good faith;

2. with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

3. in a manner he or she reasonably believes to be in the best interests of the corporation.

B. In discharging his or her duties an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. one or more officers or employees of the corporation whom the officer believes to be reliable and competent in the matters presented; or

2. legal counsel, public accountants, professionals or other experts the officer deems to be reliable and competent in the matters presented.

C. An officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

D. An officer is not liable for any action taken as an officer, or any failure to take any action, if he or she performed the duties of office in conjunction with this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.145)

12.171 RESIGNATION AND REMOVAL OF OFFICERS

A. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If the resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

B. A board of directors may remove any officer at any time with or without cause.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.146)

12.172 INDEMNIFICATION OF CORPORATE AGENTS

A. A corporation may indemnify any person who was a party or is threatened to be made a party to any threatened pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partner, joint venture, trust, or other enterprise, against expenses including attorneys' fees,

judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with the action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the corporation or, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

B. No indemnification shall be made pursuant to this section with respect to any proceeding in which such person shall have been adjudged to be liable to the corporation.

C. No person shall be indemnified under this section with respect to any proceeding charging improper personal benefit to him or her, whether or not involving action in his or her capacity, in which he or she have been adjudged to be liable on the basis that personal benefit was improperly received by him or her.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.147)

12.173 MANDATORY INDEMNIFICATION

Unless limited by its articles of incorporation, a corporation shall indemnify a director or officer who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a director of the corporation, against reasonable expenses incurred by him or her in connection with the proceedings.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.148)

12.174 INSURANCE

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him or her in that

capacity or arising from his or her status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify him or her against the same liability under this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.149)

AMENDMENT OF ARTICLES OF INCORPORATION

12.175 RESOLUTION OF PROPOSED AMENDMENT

The board of directors shall adopt a resolution setting forth a proposed amendment to the articles of incorporation and directing that it be submitted to a vote at a meeting of the shareholders, which may be either an annual or a special meeting. Any number of amendments may be submitted to shareholders and voted upon by them at one meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.150)

12.176 NOTICE OF PROPOSED AMENDMENT

Written notice setting forth a proposed amendment to the articles of incorporation or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of the annual meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.151)

12.177 VOTE OF SHAREHOLDERS MEETING

At the meeting described in Section 12.176 a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. Except as otherwise provided in this Statute, the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon. If any class of shares is entitled to vote thereon as a class pursuant to Section 12.178, the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the

shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon, unless a greater majority is required by the provisions of this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.152)

12.178 CLASSES OF SHARES ENTITLED TO VOTE

The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

A. Increase or decrease the aggregate number of authorized shares of such class;

B. Increase of decrease the par value of the shares of such class;

C. Effect an exchange, reclassification or cancellation of all or parts of the shares of such class;

D. Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class;

E. Change the designations, preferences, limitations or relative rights of the shares of such class;

F. Change the shares of such class, with or without par value, into the same or a different number of shares, with or without par value, of the same class or another class or classes;

G. Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences of any class having rights and preferences prior or superior to the shares of such class;

H. In the case of a preferred or special class of shares, divide the unissued shares of

such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series or authorize the board of directors to do so;

I. Limit or deny the existing preemptive rights of shares of such class;

J. Cancel or otherwise affect dividends on the shares of such class that have accrued but have not been declared.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.153)

12.179 ARTICLES OF AMENDMENT

A. Articles of amendment shall be executed in duplicate by the corporation by its chief executive officer and shall be verified by the officer who has been delegated responsibility under Section 12.169 of this Code for authenticating corporate records, and shall set forth:

1. The name or the corporation;

2. The amendment so adopted;

3. The date of the adoption of the amendment by shareholders;

4. The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon in each such class;

5. The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively;

6. If such amendment provides for an exchange, reclassification or

cancellation of issued shares, and the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected;

7. If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is affected and a statement expressed in dollars, of the amount of stated capital as changed by the amendment.

8. The articles of amendment shall be sent to the Director of Commerce with fees as provided in this Statute. If the Director of Commerce approves the amendments, he or she shall issue a certificate of amendments.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.154)

DISSOLUTION

12.180 DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS

A. A corporation's board of directors may propose dissolution for submission to the shareholders.

B. For a proposal to dissolve to be adopted:

1. the board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

2. the shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (E).

C. The board of directors may condition its submission of the proposal for dissolution on any basis.

D. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 12.152. The notice must also state that the purpose or one of the purposes of the meeting is to consider dissolving the corporation.

E. Unless the articles of incorporation or the board of director (acting pursuant to subsection (C)) require a greater vote or a vote by voting groups, in order for the proposal to dissolve to be adopted it must be approved by a majority of all the votes entitled to be cast on that proposal.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.155)

12.181 SHAREHOLDER OPTION TO DISSOLVE THE CORPORATION

A. Unless a shareholder's agreement or the articles of incorporation provide otherwise, any shareholder of a corporation formed under this Code has an option to have the corporation dissolved at will. Whenever any such option to dissolve is exercised, the shareholder exercising the option shall give written notice thereof to all other shareholders. The corporation or one or more shareholders of the corporations may offer to purchase the shares at their fair market value from the person exercising the option to dissolve. If the parties cannot agree on the price for the shares or other terms of the sale, any party may bring an action in Tribal Court to oversee the terms of the sale, utilizing the procedures set forth in Section 12.154(E) of this Code. If no such written offer to purchase is received within 30 days following the sending of the notice, the dissolution of the corporation shall proceed as if the required number of shareholders having voting power had consented pursuant to Section 12.180.

B. Unless the articles of incorporation otherwise provide, an amendment to the articles of incorporation to include or delete a provision authorized by subsection (A) shall be approved by the holders of all the outstanding shares, whether or not otherwise entitled to vote thereon; all of the subscribers; or all of the incorporators, if the corporation has no subscribers or shareholders.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.156)

12.182 ARTICLES OF DISSOLUTION

A. At any time dissolution is authorized, the corporation may dissolve by delivering to the LTBB Director of Commerce for filing articles of dissolution setting forth:

1. the name of the corporation;

2. the date dissolution was authorized;

3. if dissolution was approved by the shareholders:

a. the number of votes entitled to be cast on the proposal to dissolve; and

b. either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

4. if voting by voting groups was required, the information required by subparagraph (3) must be separately provided for each voting group entitled to vote separately on the proposal to dissolve.

5. if the dissolution resulted from the exercise of an option to dissolve authorized by Section 12.181 a copy of the notice required by that section shall be attached.

B. A corporation is dissolved upon the effective date of its articles of dissolution.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.157)

12.183 EFFECT OF DISSOLUTION

A. A dissolved corporation continues its corporate existence but may not carry on

any business except that appropriate to wind up and liquidate its business and affairs, including:

1. collecting its assets;

2. disposing of its properties that will not be distributed in kind to its shareholders;

3. disposing property of the Tribe in accordance with the appropriate procedures;

4. discharging or making provisions for discharging of its liabilities;

5. distributing its remaining property among its shareholders according to their interests; and

6. doing every other act necessary to wind up and liquidate its business and affairs.

B. Dissolution of a corporation does not:

1. transfer title of the corporation's property;

2. transfer title of the Tribe's property that was controlled by the corporation;

3. prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

4. subject its directors of officers to standards of conduct different from those prescribed in Section 12.166 and 12.170;

5. change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers; or change provisions for amending its bylaws;

6. prevent commencement of a proceeding by or against the corporation in its corporate name;

7. abate or suspend a proceeding pending by or against the corporation in its corporate name; or

8. terminate the authority of the registered agent of the corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.158)

12.184 KNOWN CLAIMS AGAINST DISOLVED CORPORATION

A. A dissolved corporation may dispose of the known claims against it by following the procedures prescribed in this section.

B. The dissolved corporation shall notify its known claimants in writing of the dissolution within 90 days of its effective date. The written notice must:

1. describe information that must be included in a claim;

2. provide a mailing address where a claim may be sent;

3. state the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation must receive a claim; and

4. state that the claim will be barred if not received by the deadline.

C. A claim against the dissolved corporation is barred:

1. if the claimant was given written notice under subsection (B) and does not deliver the claim to the dissolved corporation by the deadline;

2. if the claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 180 days from the effective date of the rejection notice.

D. For the purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.159)

12.185 UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION

A. A dissolved corporation may also publish notice and request that persons with claims against the corporation present them in accordance with the notice.

B. The notice must:

1. be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was last located, and in a newspaper of general circulation on the Reservation;

2. describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

3. state that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

C. If the dissolved corporation publishes a newspaper notice in accordance with subsections (A) and (B), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years after the publication date of the newspaper notice:

1. a claimant who did not receive written notice under Section 12.184;

2. a claimant whose claim was timely sent to the dissolved corporation but not acted on; or

3. a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

D. A claim may be enforced under this section:

1. against the dissolved corporation, to the extent of its undistributed assets; or

2. if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent that his or her pro-rata share of the claim or the corporate assets distributed to him or her in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to him or her.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.160)

12.186 GROUNDS FOR ADMINISTRATIVE DISSOLUTION

The Director of Commerce may proceed under Section 12.187 to administratively dissolve a corporation if:

A. the corporation's period of duration stated in the articles of incorporation expires;

B. responses to requests under Section 12.132 of this Code show that the corporation has been inactive for a period of at least one year, and there are no plans to reactivate the corporation in the future; or

C. requests under Section 12.132 of this Code have not been answered by any persons to whom they were directed for a period of 120 days after becoming due; provided, however, that 30 days before commencing a proceeding under this subsection, the Director of Commerce shall notify each person failing to answer such requests of its

intent to commence such a proceeding.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.161)

12.187 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION

A. If the Director of Commerce determines that one or more grounds exist under Section 12.186 for dissolving a corporation, it shall serve the corporation with written notice of its determination.

B. If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Director of Commerce that each ground determined by the Director of Commerce does not exist within 60 days after service of the notice is perfected, the Director of Commerce shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Director of Commerce shall file the original of the certificates and serve a copy on the corporation.

C. A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 12.183 and notify claimants under Sections 12.184 and 12.185.

D. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.162)

12.188 GROUNDS FOR JUDICIAL DISSOLUTION

The Tribal Court may dissolve a corporation:

A. in a proceeding brought on behalf of the Director of Commerce or other agency or official of the Tribe if it is established that:

1. the corporation obtained its articles of incorporation through fraud; or

2. the corporation has continued to exceed or abuse the authority conferred upon it by law;

B. in a proceeding by a shareholder if it is established that:

1. the directors are deadlocked in the management of the corporate affairs; the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

2. the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

3. the shareholders are deadlocked and have failed for a period that includes at least two consecutive annual meeting dates to elect successors to directors whose terms have expired;

4. the corporate assets are being misapplied or wasted; or

5. the shareholder has duly exercised an option described in Section 12.181 of this Code to dissolve the corporation, and the corporation has failed to proceed with filing articles of dissolution or winding up corporate affairs as required by this Code.

C. in proceeding by a creditor if it is established that:

1. the creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

2. the corporation has admitted in writing that the creditor's claim is due and

owing and the corporation is insolvent; or

D. in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.163)

12.189 PROCEDURE FOR JUDICIAL DISSOLUTION

A. It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

B. The Tribal Court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian with all powers and duties the Tribal Court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.164)

12.190 DECREE OF DISSOLUTION

A. If after a hearing the Tribal Court determines that one or more grounds for judicial dissolution described in Section 12.188 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the court shall deliver a certified copy of the decree to the Director of Commerce, who shall file it.

B. After entering the decree of dissolution, the Tribal Court shall direct the windup and liquidation of the corporation's business and affairs in accordance with Section 12.183 and the notification of claimants in accordance with Sections 12.184 and 12.185.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.165)

12.191 DEPOSIT WITH DEPARTMENT OF COMMERCE

Assets of a dissolved corporation that should be transferred to an individual who is a creditor, claimant, or shareholder of the corporation who cannot be found, is a minor, or who is not competent to receive them shall be reduced to cash and deposited into an escrow account for safekeeping established by the Director of Commerce. When the individual furnishes satisfactory proof of entitlement to the amount deposited, the Director of Commerce shall pay to the individual the amount due.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Three, 3.166)

PART FOUR – NON-PROFIT CORPORATIONS CODE

12.192 SCOPE OF CODE

A. Unless otherwise provided, the provisions of this Code apply to all non-profit corporations formed under Tribal law, except those corporations that are controlled by the Tribal Council.

B. Any non-profit corporation not organized under the Tribal Comprehensive Business Codes shall not be entitled to any of its protections and benefits except as may be directed by the Tribal Council on a case-by-case basis.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.101)

12.193 DEFINITION OF TERMS USED IN THIS CODE

In addition to the definitions provided in the Tribal Comprehensive Business Codes Preamble and Part 1 of this Code, the following definitions apply in this Part:

A. "**Corporation**" means a non-profit corporation formed under Tribal law, except for those non-profit corporations controlled by the Tribal Council;

B. "**Director**" means a member of a group elected or otherwise authorized to govern the affairs of the corporation, and includes trustees, governors, regents, and other similar terms;

C. "**Member**" means (without regard to what a person is called in the articles or bylaws) any person who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors. A person is not a member solely by virtue of any of the following:

1. any rights such person has as a member of the staff or student body of any school or college to vote for a director;

2. any rights such person has to designate a director or directors; or

3. any rights such person has as a director.

D. "**Mutual Benefit Corporation**" means any corporation, including any non-profit cooperative, which is not a public benefit corporation.

E. "**Public Benefit Corporation**" means:

1. any corporation which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section;

2. any corporation, unless its articles of incorporation provide that it is a mutual benefit corporation, which is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals; or

3. any corporation organized primarily for a public purpose and which is designated in its articles of incorporation as a public benefit corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.102)

12.194 PURPOSES AND POWERS OF NON-PROFIT CORPORATIONS

A. Every corporation incorporated under Tribal law has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation.

B. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs, including without limitation the power:

1. to sue and be sued, complain and defend in its corporate name, except that nothing in this Part shall limit the application of Section 12.119 of this Statute.

2. to have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

3. to make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Tribe, for managing and regulating the affairs of the corporation;

4. to purchase, receive, lease, or acquire, whether by gift, devise, bequest or otherwise, and to own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

5. to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

6. to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;

7. to make contracts and guarantees, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises or income;

8. to lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by Section 12.195 of this Code;

9. to be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other entity;

10. to conduct its business, locate offices, and exercise the powers granted by this Code within or outside the Reservation and the State of Michigan;

11. to elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation;

12. to pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees, and agents;

13. to make donations for public welfare or for charitable, scientific, or educational purposes and for the purposes not inconsistent with law, that further the corporate mission;

14. to impose dues, assessments, admission and transfer fees upon its members;

15. to establish conditions for admission to membership, admit members and issue memberships;

16. to carry on a business;

17. to do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation;

18. to cease its corporate activities and surrender its corporate franchise.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.103)

12.195 LIMITATIONS

A. A corporation:

1. shall not have or issue shares of stock;

2. shall not pay dividends or make any disbursement of income to its members, directors or officers;

3. shall not loan money or credit to its officers or directors;

4. may pay compensation only up to a reasonable amount to its members, directors, officers or agents for services rendered; and

5. may confer benefits upon its members only in conformity with its purposes.

B. A mutual benefit corporation, unless its articles of incorporation or bylaws provide otherwise:

1. upon dissolution or final liquidation may make distributions to its members as permitted by this Code, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income; and

2. may periodically pay refunds to members for fees or dues actually paid which are in excess of the losses, expenses and debts of the corporation, and such refunds shall not be deemed to be dividends or distributions of income.

C. A public benefit corporation shall, upon dissolution, have its assets distributed for one or more purposes listed in the definition of “Public Benefit Corporation" contained in Section 12.193 of this Code, or to the federal government, or to a state, tribe or other local government, for a public purpose, or shall be distributed by a court to another

organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.104)

12.196 LIMITATIONS ON PRIVATE FOUNDATIONS

A. A corporation which is a private foundation as defined in Section 509(a) of the Internal Revenue Code of 1954, as amended, ("IRC"):

1. Shall distribute such amounts for each taxable year at such time and in such manner as to avoid subjecting the corporation to tax under Section 4942 of the IRC;

2. Shall not engage in any act of self-dealing as defined in Section 4941(d) of the IRC;

3. Shall not retain any excess business holdings as defined in Section 4943(c) of the IRC;

4. Shall not make any taxable expenditure as defined in Section 4944 of the IRC;

5. Shall not make any taxable expenditure as defined in Section 4945(d) of the Code;

B. All references in this Section to sections of the IRC shall be to such sections of the Internal Revenue Code of 1954 as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.105)

12.197 DEFENSE OF ULTRA VIRES

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

A. In a proceeding by a member or director against the doing of any act or acts or the transfer of real or personal property by or to the corporation. If any unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

B. In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the incumbent or former officers or directors of the corporation.

C. In a proceeding by the Director of Commerce, as provided in this Chapter, to dissolve the corporation, or to enjoin the corporation from the transaction of unauthorized business.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.106)

12.198 ARTICLES OF INCORPORATION

A. Articles of incorporation shall set forth:

1. a corporate name for the corporation that satisfies the requirements of this Code;

2. One of the following statements:

a. This corporation is a Public Benefit Corporation.

b. This corporation is a Mutual Benefit Corporation.

3. the purpose or purposes for which the corporation is organized, which may be, either alone or in combination with other purposes, the transaction of any lawful activity;

4. the names and addresses of the individuals who are to serve as the initial directors;

5. the street address of the corporation's initial registered office and the name of its initial registered agent at that office;

6. the name and address of each incorporator;

7. whether or not the corporation will have members; and

8. provisions not inconsistent with law regarding the distribution of assets on dissolution.

B. The articles of incorporation may set forth:

1. provisions not inconsistent with law regarding:

a. managing and regulating the affairs of the corporation;

b. defining, limiting, and regulating the powers of the corporation, its board of directors, and members (or any class of members); and

c. the characteristics, qualifications, rights, limitations and obligations attaching to each or any class of members.

2. any provision that under this Code is required or permitted to be set forth in the bylaws.

C. Each incorporator and director named in the articles must sign the articles.

D. The articles of incorporation need not set forth any of the corporate powers enumerated in this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.107)

12.199 FILING OF ARTICLES OF INCORPORATION

A. Duplicate originals of the articles of incorporation shall be delivered to the Director of Commerce. If the Director of Commerce finds that the articles of incorporation are in order he or she shall, when all the fees have been paid as in this Code described:

1. Endorse on each original the word "Filed," and the effective date of the filing.

2. File one original.

3. Issue a certificate of incorporation to which the other original shall be affixed.

B. The certificate of incorporation together with the original affixed articles of incorporation shall be returned to the incorporators or their representative.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.108)

12.200 EFFECT OF FILING THE ARTICLES OF INCORPORATION – CERTIFICATE OF INCORPORATION

Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Code, except as against the Tribe in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.109)

12.201 ORGANIZATION MEETING OF DIRECTORS

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers, and transacting such other business as may come before the meeting. Unless all directors waive notice, the directors calling the meeting shall give at least three days' notice of the meeting by mail to each director, which notice shall state the time and place of the meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting, if each director signs an instrument that states the action so taken.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.110)

MEMBERS

12.202 ADMISSION OF MEMBERS

A. A corporation is not required to have members.

B. A corporation may admit any person as a member. The articles or bylaws shall establish criteria or procedures for admission; provided, however, that no person shall be admitted as a member without his or her consent.

C. Except as provided in its articles or bylaws, a corporation may admit members for

no consideration or for such consideration as is determined by the board.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.111)

12.203 DIFFERENCES IN RIGHTS AND OBLIGATIONS OF MEMBERS

All members shall have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. Members shall have the same rights and obligations with respect to any other matters, except as set forth in or authorized by the articles or bylaws.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.112)

12.204 TRANSFERS

A. Except as set forth in or authorized by the articles or bylaws, no member of a Mutual Benefit Corporation may transfer a membership or any rights arising from membership.

B. No member of a Public Benefit Corporation may transfer a membership or any rights arising from membership.

C. Where transfer rights have been provided, no restriction on them shall be binding with respect to a member holding a membership issued prior to the adoption of the restriction unless the restriction is approved by the members and the affected member.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.113)

12.205 RESIGNATION

A. A member may resign at any time.

B. The resignation of a member does not relieve the member from any previously

accrued obligations the member may have to the corporation, unless the organizational documents provide otherwise.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.114)

12.206 TERMINIATION

A. No member may be expelled or suspended, and no membership or memberships may be terminated or suspended except pursuant to a procedure that is fair and reasonable under the circumstances and is carried out in good faith.

B. A procedure is fair and reasonable when it provides for written notice to the member of the reasons for the proposed expulsion, suspension or termination, and provides a reasonable opportunity for the member to be heard by the person or persons authorized to decide the matter prior to the proposed action.

C. A procedure that departs from any procedures set forth in the corporate bylaws for the expulsion, termination or suspension of members or membership rights is not fair and reasonable, unless special circumstances warrant such a departure.

D. Any proceeding challenging an expulsion, suspension or termination, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the expulsion, suspension or termination.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.115)

12.207 PURCHASE OF MEMBERSHIPS

A. A Public Benefit Corporation may not purchase any of its memberships or any rights arising from membership.

B. A Mutual Benefit Corporation may purchase the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles or bylaws.

C. A Mutual Benefit Corporation shall not purchase its memberships unless after the purchase is completed:

1. the corporation would be able to pay its debts as they become due in the usual course of its activities; and

2. the corporation's total assets would at least equal the sum of its total liabilities.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.116)

12.208 ANNUAL MEETING OF MEMBERS

A corporation with members shall establish in its articles of incorporation or by-laws a date at which an annual meeting of members shall be held, if called, and if not so established, the date shall be the second business day after May 31st. Unless otherwise provided in the articles of incorporation, no annual meeting need be held unless a written request is delivered to the corporation by any voting member not less than 30 days before the date specified for the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.117)

12.209 SPECIAL MEETINGS OF MEMBERS

A. A corporation shall hold a special meeting of members:

1. on call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

2. if at least 10 percent of all the members entitled to vote on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the corporation's secretary one or more written demands for the meeting, describing the purposes for which it is to be held.

B. Special meetings of members may be held on or off of the Reservation, at the place stated in accordance with the bylaws. If no place is stated in the bylaws, special meetings shall be held at the corporation's principal office.

C. Only business within the purposes described in the notice sent to members may be conducted at a special meeting of members.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.118)

12.210 NOTICE OF MEMBERS' MEETINGS

A. A corporation shall notify its members of the date, time and place of each annual and special meeting no fewer that 15, nor more than 60 days before the meeting unless this Code or the Articles of Incorporation require otherwise the corporation is required to give notice only to members entitled to vote at the meeting.

B. Notice of members' meetings shall be given by mail, facsimile or telephone, using the most recent address or telephone number supplied to the corporation by each member; provided, however, that if it is consistent with the corporation's articles or bylaws, notice may be given by posting and publishing notices instead of mailing, faxing or telephoning if the directors determine in good faith that notice so given is reasonably calculated to actually inform all voting members of the meeting.

C. If annual or special members' meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if that information is announced before meeting adjournment.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.119)

12.211 WAIVER OF NOTICE

A. A member may waive any notice required by this Code, the articles, or bylaws before or after the date and time stated in the notice. Except as provided in subsection (B)

below, the waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

B. A member's attendance at a meeting:

1. waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting;

2. waives objection to consideration of a particular matter at the meeting, that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.120)

12.212 ACTION BY WRITTEN BALLOT

Unless prohibited or limited by the articles or bylaws, any action that may be taken at any annual or special meeting of members may be taken by a vote without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.121)

12.213 VOTING RIGHTS OF MEMBERS IN GENERAL

A. Each member shall have no more than one vote with respect to any matter he or she is entitled to vote upon according to the corporation's bylaws or articles.

B. Cumulative voting for directors shall be allowed if provided for in the corporation's bylaws or articles.

C. The bylaws or articles of a corporation may provide for any reasonable method to fill individual positions on its board of directors, including but not limited to: voting by

all members; voting among members living in a particular community; voting among any other class of members; appointment by the Tribal Council or any other person or entity; and voting among persons who are not considered "members" under Section 12.193 of this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.122)

12.214 INSPECTION OF CORPORATE RECORDS

A. A corporation shall keep at least the following records:

1. minutes of all members' meetings and board of directors' meetings and actions of members or of the board of directors without a meeting;

2. appropriate accounting records;

3. detailed records of the source and use of any money donated to a public benefit corporation;

4. names and addresses of all members and the class of voting rights held by each;

5. current articles of incorporation and bylaws;

6. resolutions adopted by the board of directors.

B. Upon five days written notice, the Director of Commerce or his or her duly authorized representative or a member of the corporation is entitled to inspect and copy the records referred to in subsection (A) above. In the case of inspection by a member, the right is subject to the following requirements:

1. the member's demand must be made in good faith and for a proper purpose;

2. the member must describe with reasonable particularity his or her purpose and the records he or she desires to inspect; and

3. the records must be directly connected with his or her purpose.

C. the corporation may impose a reasonable charge covering the costs of labor and materials for copies of documents; provided, however, that in the case of copies made for a member, the charge may not exceed any estimates of such costs provided to the member.

D. A member's agent or attorney has the same inspection and copying rights as the member he or she represents.

E. A corporation may take reasonable steps to prevent the dissemination of trade secrets, proprietary information or other commercially-sensitive information to persons other than corporate members or representatives of the Director of Commerce.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.123)

12.215 LIMITATIONS ON USE OF MEMBERSHIP LISTS

A. Without consent of the board, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

1. used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation;

2. used for any commercial purpose; or

3. sold to or purchased by any person.

B. This section shall not be construed to limit the use of membership lists by the Director of Commerce or other tribal officials in the course of any official investigation of the operation of a corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.124)

12.216 DUTIES OF BOARD OF DIRECTORS

A. Except as provided in subsection (B) below, the board of directors shall exercise all corporate powers and manage the affairs of the corporation.

B. The articles may authorize a person or persons to exercise some or all of the powers that would otherwise be exercised by a board. To the extent so authorized any such person or persons shall have the duties and responsibilities of directors, and the directors shall be relieved to that extent from such duties and responsibilities.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.125)

12.217 QUALIFICATIONS OF DIRECTORS

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of the Reservation or a member of the corporation unless the articles of incorporation or bylaws so prescribe. A director shall be an individual who is least 18 years of age.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.126)

12.218 TERMS OF DIRECTORS

A. If the corporation has members:

1. the terms of the initial directors of a corporation expire at the first members' meeting at which directors are elected; and

2. the terms of all other directors expire at the next annual members' meeting following their election, unless the articles of incorporation provide that their terms are staggered or are longer than one year in duration.

B. If the corporation does not have members, all the directors (except the initial directors) shall be elected, appointed or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors (other than the initial directors) shall be elected by the board.

C. A decrease in the number of directors does not shorten an incumbent director's term.

D. Except as provided in the articles or bylaws:

1. the term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and

2. the term of a director filling any other vacancy expires at the end of the unexpired term which such director is filling.

E. Despite the expiration of a director's term he or she continues to serve until a successor is elected or appointed and qualifies or until there is a decrease in the number of directors.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.127)

12.219 REMOVAL OF ELECTED DIRECTORS

A. The members may vote to remove one or more directors with or without cause.

B. If a director is elected by a voting group of members, only the members of that voting group may participate in the vote to remove him or her.

C. A director may be removed by the members only at a meeting called for that

purpose and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

D. An entire board of directors may be removed under subsections (A)-(C).

E. The board of directors of a corporation may, without cause, remove a director who has been elected by the board by the vote of a two-thirds of the directors then in office or such greater number as is set forth in the articles or bylaws.

F. If at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office vote for the removal.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.128)

12.220 REMOVAL OF DESIGNATED OR APPOINTED DIRECTORS

A. A designated director may be removed by an amendment to the articles or bylaws deleting or changing the designation.

B. Appointed Directors:

1. Except as otherwise provided in the articles or bylaws, an appointed director may be removed without cause by the person appointing the director;

2. The person removing the director shall do so by giving written notice of the removal to the director and either the presiding officer of the board or the corporation's president or secretary;

3. A removal is effective when the notice is effective unless the notice specifies a future effective date.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.129)

12.221 REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING

A. The Tribal Court may remove a director of the corporation from office in a proceeding commenced by the corporation, or by at least 33 percent of the members or in an action brought on behalf of the Director of Commerce, if the Tribal Court finds that:

1. the director engaged in fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the corporation or that the director received a loan of the corporation's money or credit; and

2. removal is in the best interest of the corporation.

B. If the Tribal Court removes the director it may bar the director from reelection for a period prescribed by the Tribal Court.

C. If either the corporation's members or the Director of Commerce commences a proceeding under subsection (A), the corporation shall be made a party defendant.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.130)

12.222 VACANCY ON BOARD

A. Unless the articles or bylaws provide otherwise, and except as provided in subsections (B) and (C), if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

1. the members, if any, may fill the vacancy if the vacant office was held by a director elected by a specific voting class, only members of the class are entitled to vote to fill the vacancy if it is filled by the members;

2. the board of directors may fill the vacancy; or

3. if the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

B. Unless the articles or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

C. If a vacant office was held by a designated director, the vacancy shall be filled as provided in the articles or bylaws. In the absence of an applicable article or bylaw provision, the vacancy may not be filled by the board.

D. A vacancy that will occur at a specific later date, by reason of a resignation or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.131)

12.223 MEETINGS

A. The board of directors may hold regular or special meetings on or off the Reservation.

B. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of any means of communication by which the participating directors may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.132)

12.224 ACTION WITHOUT MEETING

A. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Code to be taken at a board of directors' meeting may be taken

without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

B. Action taken under this section is effective when the last director signs the consent unless the consent specifies a different effective date.

C. A consent signed under this section has the effect of a meeting, vote and may be described as such in any document.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.133)

12.225 NOTICE OF MEETING

A. Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held as provided in the bylaws without notice.

B. Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation, bylaws or the provisions of this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.134)

12.226 WAIVER OF NOTICE

A. A director may waive any notice required by this Code, the articles of incorporation or the bylaws before or after the date and time stated in the notice. Except as provided by subsection (B), the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

B. A director's attendance at or participation in a meeting waives any required notice

to him or her of the meeting unless that director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.135)

12.227 QUORUM AND VOTING

A. Unless the articles of incorporation or bylaws require a greater number, a quorum of a board of directors consists of a majority of the number of directors.

B. The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no less than one-third of the number of directors.

C. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

D. A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

1. he or she objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting;

2. his or her dissent or abstention from the action taken is entered in the minutes of the meeting; or

3. he or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.136)

12.228 GENERAL STANDARDS FOR DIRECTORS

A. A director shall discharge his or her duties as a director, including duties as a member of a committee:

1. in good faith;

2. with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

3. in a manner he or she reasonably believes to be in the best interests of the corporation.

B. In discharging his or her duties a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

2. legal counsel, public accountants, professionals or other experts the director deems to be reliable and competent in the matters presented; or

3. a committee of the board of directors of which he or she is not a member, as to matters within its jurisdiction, if the director reasonably believes the committee merits confidence.

C. A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

D. A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without

limit, property that may be subject to restrictions imposed by the donor or transferor of such property, and notwithstanding that the corporation may be a trustee with respect to the property.

E. A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of office in compliance with this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.137)

12.229 DIRECTOR CONFLICT OF INTEREST

A. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction was fair at the time it was entered into or is approved as provided in subsections (B) or (C).

B. A transaction in which a director of a Public Benefit Corporation has a conflict of interest may be approved:

1. in advance by the vote of the board of directors or a committee of the board if:

a. the material facts of the transaction and the director's interest are disclosed or known to the board or committee of the board; and

b. the directors approving the transaction in good faith reasonably believe that the transaction is fair to the corporation; or

2. before or after it is consummated, by obtaining approval of the:

a. Director of Commerce; or

b. Tribal Court in an action of which the Director of Commerce is

given notice.

C. A transaction in which a director of a Mutual Benefit Corporation has a conflict of interest may be approved if the following apply:

1. the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board and the board or committee of the board authorized, approved, or ratified the transaction; or

2. the material facts of the transaction and the director's interest were disclosed or known to the members and they authorized, approved, or ratified the transaction.

D. For purposes of this section, a director of the corporation has an indirect interest in a transaction if:

1. another entity in which he or she has a material financial interest or in which he or she is a general partner is a party to the transaction, or

2. another entity of which he or she is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

E. For purposes of subsections (B) and (C), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of or a vote cast by a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsections (B) and (C) if the transaction is otherwise authorized, approved, or ratified as provided in subsections (B) or (C).

F. For purposes of subsection (C)(2), a conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection (D)(1), may not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (C)(2). The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this Code. For the purpose of taking action under this section, a quorum constitutes a majority of the voting members entitled to be counted in a vote on the transaction, whether or not present.

G. The articles, bylaws, or a resolution of the board may impose additional requirements on conflict of interest transactions.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.138)

12.230 LIABILITY OF UNLAWFUL PAYMENTS

A. Unless he or she complies with the applicable standards of conduct described in Section 12.228, a director who votes for or assents to any payment of money by the corporation to a member, officer or director made in violation of Section 12.195 of this Statute or the articles of incorporation is personally liable to the corporation for the amount of the payment that exceeds what could have been distributed without violating this Code or the articles of incorporation.

B. A director held liable for an unlawful payment under subsection (A) is entitled to contribution:

1. from every other director who voted for or assented to the payment without complying with the applicable standards of conduct described in section 12.228; and

2. from each member, officer or director who received an unlawful payment,

for the amount of the unlawful payment, whether of not he or she accepted the payment knowing it was made in violation of this Code or the articles of incorporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.139)

12.231 OFFICERS

A. A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

B. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.

C. The bylaws or the board of directors shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

D. The same individual may simultaneously hold more than one office in a corporation.

E. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.140)

12.232 STANDARDS OF CONDUCT FOR OFFICERS

A. An officer with discretionary authority shall discharge his or her duties under that authority:

1. in good faith;

2. with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

3. in a manner he or she reasonably believes to be in the best interests of the corporation.

B. In discharging his or her duties an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented; or

2. legal counsel, public accountants, professionals or other experts the officer deems to be reliable and competent in the matters presented.

C. An officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

D. An officer is not liable for any action taken as an officer, or any failure to take any action, if he or she performed the duties of office in compliance with this section.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.141)

12.233 RESIGNATION AND REMOVAL OF OFFICERS

A. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

B. A board of directors may remove any officer at any time with or without cause.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.142)

12.234 INDEMNIFICATION OF CORPORATE AGENTS

A. A corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partner, joint venture, trust or other enterprise, against expenses including attorney fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred in connection with the action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

B. No indemnification shall be made pursuant to this section in respect of any proceeding in which such person shall have been adjudged to be liable to the corporation.

C. No person shall be indemnified under this section in respect of any proceeding charging improper personal benefit to him or her, whether or not involving action in his or her official capacity, in which he or she shall have been adjudged to be liable on the basis that personal benefit was improperly received by him or her.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.143)

12.235 MANDATORY INDEMNIFICATION

Unless limited by its articles of incorporation, a corporation shall indemnify a director or officer who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a director of the

corporation, against reasonable expenses incurred by him or her in connection with the proceedings.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.144)

12.236 ADVANCE FOR EXPENSES

A. A corporation may pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to a proceeding in advance of final disposition of the proceeding if the following apply:

1. the director or officer furnishes the corporation a written affirmation of his or her good faith belief that he or she has met the standard of conduct described in section 12.234;

2. the director or officer furnishes the corporation a written undertaking, executed personally or by a surety or guarantor, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct; and

3. a determination is made that the facts then known to those making the determination would not preclude indemnification under this Section.

B. The undertaking required by subsection (A)(2) must be an unlimited general obligation of the director or officer but need not be secured and may be accepted without reference to financial ability to make repayment.

C. Determinations and authorizations of payments under this section shall be made in the manner specified in Section 12.238.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.145)

12.237 COURT-ORDERED INDEMNIFICATION

Unless limited by a corporation's articles of incorporation, a director or officer of

the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding, to the Tribal Court or to another court of competent jurisdiction. On receipt of an application the court, after giving any notice the court considers necessary, may order indemnification in the amount it considers proper if it determines:

A. the director or officer is entitled to mandatory indemnification under Section 12.235, in which case the court shall also order the corporation to pay the director's or officer's reasonable expenses incurred to obtain court-ordered indemnification; or

B. the director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in Section 12.234 or was adjudged liable as described in Section 12.234(B) or (C), but if the director or officer was adjudged so liable indemnification is limited to reasonable expenses incurred.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.146)

12.238 DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION

A. A corporation may not indemnify a director or officer under Section 12.234 unless authorized in the specific case after a determination has been made that indemnification is permissible in the circumstances because the director or officer has met the standard of conduct set forth in Section 12.234.

B. The determination shall be made:

1. by the board of directors by majority vote of a quorum consisting of directors not at the time party to the proceeding;

2. if a quorum cannot be obtained under subdivision (1), by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding;

3. by special legal counsel:

a. selected by the board of directors or its committee in the manner prescribed in subdivision (1) or (2); or

b. if a quorum of the board cannot be obtained under subdivision (1) and a committee cannot be designated under subdivision (2), selected by majority vote of the full board (in which selection directors who are parties may participate);

4. by the members of a Mutual Benefit Corporation, but directors who are at the time parties to the proceedings may not vote on the determination.

C. Authorization of identification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if special legal counsel makes the determination, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (B)(3) to select counsel.

D. A director or officer of a Public Benefit Corporation may not be indemnified until 20 days after written notice is given to the Director of Commerce of the proposed indemnification.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.147)

12.239 INSURANCE

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or

arising from his status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify him or her against the same liability under this Code.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.148)

12.240 AMENDMENTS TO BYLAWS AND ARTICLES OF INCORPORATION WITHOUT MEMBERS

If a corporation has no members, its board of directors may adopt one or more amendments to the corporation's bylaws and articles, subject to any approvals required by the articles or bylaws. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with Section 12.225. The notice must also state that a purpose of the meeting is to consider a proposed amendment to the articles or bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. In addition to any requirements in the bylaws or articles concerning voting on proposed amendments, the amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.149)

12.241 AMENDMENTS TO BYLAWS AND ARTICLES OF INCORPORATION WITH MEMBERS

A. If the corporation has members, then:

1. Unless this code, the articles, bylaws or the board of directors (acting pursuant to subsection (B)(2)) require a greater vote or voting by class, an amendment to a corporation's articles or bylaws to be adopted must be approved:

a. by the board if the corporation is a Public Benefit Corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which

directors are elected or selected;

b. by the members by two-thirds of the votes cast or by a majority of the voting power, whichever is less; and

c. in writing by any person or persons whose approval is required by a provision of the articles or bylaws.

B. If the board initiates an amendment to the articles or bylaws, or board approval is required by subsection (A) to adopt an amendment, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or any other basis.

C. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with Section 12.210. The notice must state that a purpose of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

D. If the board seeks to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.150)

12.242 APPROVAL BY THIRD PERSONS

The articles or bylaws may require an amendment to the articles or bylaws to be approved in writing by a specified person or persons other than the board. Such an article or bylaw provision may only be amended with the approval in writing of such person or persons.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.151)

12.243 ARTICLES OF AMENDMENT

A. A corporation amending its articles shall prepare articles of amendment, which shall be executed in duplicate by the corporation by its chief executive officer and shall be verified by the officer who has been delegated responsibility under Section 12.231 of this Code for authenticating corporate records, and shall set forth:

1. the name of the corporation;

2. the text of each amendment adopted;

3. the date of each amendment's adoption;

4. if approval of members was not required, a statement to that effect and a statement that the amendment was approved by a sufficient vote of the board of directors;

5. if approval by members was required, the number of memberships out standing and the total number of votes cast for and against the amendment.

6. if approval of the amendment by some person or persons other than the members or the board is required pursuant to section 12.242, a statement that the approval was obtained.

B. The articles of amendment shall be sent to the Director of Commerce with the fees as provided in this Code. If the Director of Commerce approves the amendments, he or she shall issue a certificate of amendment.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.152)

12.244 DISSOLUTION OF CORPORATIONS WITHOUT MEMBERS

A. The board of directors of a corporation that has no members may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering to the

Director of Commerce articles of dissolution.

B. The corporation shall give notice of any meeting at which dissolution will be approved. The notice shall be in accordance with Section 12.225. The notice must also state that a purpose of the meeting is to consider dissolution of the corporation.

C. Dissolution shall be approved by a vote of a majority of the directors in office at the time the transaction is approved.

D. The directors in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.153)

12.245 VOTING ON DISSOLUTION BY DIRECTORS AND MEMBERS

A. Unless this Code, the articles, bylaws or the board of directors or members (acting pursuant to subsection (B)) require a greater vote, dissolution is authorized if it is approved:

1. by the board;

2. by the members, if any, by two-thirds of the votes cast or a majority of the members, whichever is less; and

3. in writing by any person or persons whose approval is required by a provision of the articles authorized by Section 12.242 for an amendment to the articles or bylaws.

B. The board may condition its submission of the proposed dissolution on receipt of a higher percentage of affirmative votes or on any other basis.

C. If the board seeks to have dissolution approved by the members at a membership

meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with Section 12.210. The notice must also state that a purpose of the meeting is to consider dissolving the corporation and must contain or be accompanied by a copy or summary of the plan of dissolution.

D. If the board seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

E. The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.154)

12.246 DISTRIBUTIONS BY PUBLIC BENEFIT CORPORATIONS

A. A Public Benefit Corporation shall give the Director of Commerce written notice that it intends to dissolve 10 days before the time it delivers articles of dissolution to the Director of Commerce. The notice shall include a copy or summary of the plan of dissolution.

B. No assets shall be transferred or conveyed by a Public Benefit Corporation as part of the dissolution process until twenty days after it has given written notice as required by subsection (A) to the Director of Commerce or until the Director of Commerce has consented in writing to, or indicated in writing that it will take no action with respect to, the transfer or conveyance, whichever is earlier.

C. Prior to the expiration of the 20-day period described in subsection (B), the Director of Commerce may bring an action in Tribal Court to challenge the planned distribution of assets, and the Tribal Court may enjoin any distribution pending the outcome of the action.

D. When all or substantially all of the assets of a Public Benefit Corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to

the Director of Commerce a list showing those, other than creditors, to whom the assets were transferred or conveyed. The list shall indicate the addresses of each person, other than creditors, who received assets and indicate what assets each received.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.155)

12.247 ARTICLES OF DISSOLUTION

A. Subject to any waiting period prescribed by Section 12.246, at any time after dissolution is authorized, the corporation may dissolve by delivering to the Director of Commerce articles of dissolution setting forth:

1. the name of the corporation;

2. the date dissolution was authorized;

3. a statement that dissolution was approved by a sufficient vote of the board;

4. if approval of members was not required, a statement to that effect;

5. if approval by members was required, the number of memberships outstanding and the total number of votes cast for and against dissolution.

6. if approval of dissolution by some person or persons other than the members, the board or the incorporators is required pursuant to Section 12.245(A)(3), a statement that the approval was obtained; and

7. the effective date of the articles of dissolution.

B. After its articles of dissolution have been accepted for filing by the Director of Commerce, a corporation is dissolved upon the effective date stated in its articles of dissolution.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.156)

12.248 EFFECT OF DISSOLUTION

A. A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

1. preserving and protecting its assets and minimizing its liabilities;

2. discharging or making provision for discharging its liabilities and obligations;

3. disposing of its properties that will not be distributed in kind;

4. returning, transferring or conveying assets held by the corporation upon a condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition;

5. transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

6. if the corporation is a Public Benefit Corporation and no provision has been made in its articles or bylaws for distribution of assets upon dissolution, then subject to any contractual or legal requirement, its assets must be transferred in accordance with section 12.195(C);

7. if the corporation is a Mutual Benefit Corporation and no provision has been made in its articles or bylaws for distribution of assets on dissolution, then assets shall be transferred to its members or, if it has no members, to those persons whom the corporation holds itself out as benefiting or serving; and

8. doing every other act necessary to wind up and liquidate its assets and affairs.

B. Dissolution of a corporation does not:

1. transfer title to the corporation's property;

2. subject its directors or officers to standards of conduct different from those prescribed in sections 12.228 and 12.232;

3. change quorum or voting requirements for its board of directors or members; change provisions for selection, resignation, or removal of its directors or officers; or change provisions for amending its bylaws;

4. prevent commencement of a proceeding by or against the corporation in its corporate name;

5. abate or suspend a proceeding pending by or against the corporation in its corporate name; or

6. terminate the authority of the registered agent of the corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.157)

12.249 KNOWN CLAIMS AGAINST A DISSOLVED CORPORATION

A. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

B. The dissolved corporation shall notify its known claimants in writing of the dissolution within 90 days of its effective date. The written notice must:

1. describe information that must be included in a claim;

2. provide a mailing address where a claim may be sent;

3. state the deadline, which may not be fewer than 120 days from the

effective date of the written notice, by which the dissolved corporation must receive the claim, and

4. state that the claim will be barred if not received by the deadline.

C. A claim against the dissolved corporation is barred:

1. if a claimant who was given written notice under subsection (B) does not deliver the claim to the dissolved corporation by the deadline;

2. if a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 180 days from the effective date of the rejection notice.

D. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.158)

12.250 UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION

A. A dissolved corporation may also publish notice of its dissolution and request that persons with claim against the corporation present them in accordance with the notice.

B. The notice must:

1. be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was last located and in a newspaper of general circulation on the Reservation;

2. describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

3. state that a claim against the corporation will be barred unless a

proceeding to enforce the claim is commenced within two years after the publication of the notice.

C. If the dissolved corporation publishes a newspaper notice in accordance with subsection (B), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years after the publication date of the newspaper notice:

1. a claimant who did not receive written notice under Section 12.249;

2. a claimant whose claim was timely sent to the dissolved corporation but not acted on;

3. a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

D. A claim may be enforced under this section:

1. against the dissolved corporation, to the extent of its undistributed assets; or

2. if the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributes.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.159)

12.251 GROUNDS FOR ADMINISTRATIVE DISSOLUTION

The Director of Commerce may proceed under Section 12.252 to dissolve a corporation administratively if:

A. the corporation's period of duration stated in its articles of incorporation expires;

B. responses to the requests under the Tribal Comprehensive Business Codes of this Chapter show that the corporation has been inactive for a period of at least one year, and there are no plans to reactive the corporation in the future; or

C. request under the Tribal Comprehensive Business Codes have not been answered by any of the persons to whom they were directed for a period of 120 days after becoming due; provided, however, that 30 days before commencing a proceeding under this subsection, the Director of Commerce shall notify each person failing to answer such interrogatories of its intent to commence such a proceeding.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.160)

12.252 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION

A. If the Director of Commerce determines that one or more grounds exist under Section 12.251 for dissolving a corporation, he or she shall serve the corporation with written notice of his or her determination.

B. If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Director of Commerce that each ground determined by the Director of Commerce does not exist within 60 days after service of the notice is perfected, the Director of Commerce shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Director of Commerce shall file the original of the certificate and serve a copy on the corporation.

C. A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 12.248 and notify claimants under Sections 12.249 and 12.250.

D. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.161)

12.253 GROUNDS FOR JUDICIAL DISSOLUTION

A. The Tribal Court may dissolve a corporation:

1. in a proceeding brought on behalf of the Director of Commerce or other agency or official of the Tribe if it is established that:

a. the corporation obtained its articles of incorporation through fraud;

b. the corporation has continued to exceed or abuse, the authority conferred upon it by law;

c. the corporation is a public benefit corporation and the corporate assets are being misapplied or wasted; or

d. the corporation is a public benefit corporation and is no longer able to carry out its purposes.

2. in a proceeding by members holding 25 per cent of the voting power, or by a director, or by any person specified in the articles, if it is established that:

a. the directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to break the deadlock;

b. the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

c. the members are deadlocked and have failed for a period that includes at least two consecutive annual meeting dates to elect successors

to directors whose terms have, or otherwise would have, expired;

d. the corporate assets are being misapplied or wasted; or

e. the corporation is a Public Benefit Corporation and is no longer able to carry out its purposes;

3. in a proceeding by a creditor if it is established that;

a. the creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

b. the corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

4. in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

B. Prior to dissolving a corporation, the court shall consider whether:

1. there are reasonable alternatives to dissolution;

2. dissolution is in the public interest, if the corporation is a Public Benefit Corporation;

3. dissolution is the best way of protecting the interests of members, if the corporation is a Mutual Benefit Corporation.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.162)

12.254 PROCEDURE FOR JUDICIAL DISSOLUTION

A. It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

B. The Tribal Court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

C. A person who brings an involuntary dissolution proceeding for a public benefit corporation shall forthwith give written notice of the proceeding to the Director of Commerce, who may intervene.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.163)

12.255 RECEIVERSHIP OR CUSTODIANSHIP

A. The Tribal Court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The Tribal Court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

B. The court may appoint an individual, or a domestic, Tribal or foreign business or nonprofit corporation as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

C. The Tribal Court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

1. The receiver:

a. may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the Tribal Court; provided, however, that the receiver's power to dispose of the assets of the corporation is subject to any trust and other restrictions that would

be applicable to the corporation; and

b. may sue and defend in the receiver's or custodian's name as receiver or custodian of the corporation;

2. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors.

D. During a receivership the Tribal Court may re-designate the receiver a custodian, and during a custodianship may re-designate the custodian a receiver, if doing so is in the best interests of the corporation, its members, and creditors.

E. From time to time during the receivership or custodianship the Tribal Court may order compensation paid and reimbursements made to the receiver or custodian and to his or her counsel and accountant from the assets of the corporation or proceeds from the sale of the assets.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.164)

12.256 DECREE OF DISSOLUTION

A. If after a hearing the Tribal Court determines that one or more grounds for judicial dissolution described in section 12.253 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the Tribal Court shall deliver a certified copy of the decree to the Director of Commerce, who shall file it.

B. After entering the decree of dissolution, the Tribal Court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with section 12.248 and the notification of claimants in accordance with Sections 12.249 and 12.250.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.165)

12.257 DEPOSIT WITH DEPARTMENT OF COMMERCE

Assets of a dissolved corporation that should be transferred to an individual who is a creditor, claimant, or shareholder of the corporation who cannot be found, is a minor, or who is not competent to receive them shall be reduced to cash and deposited into an escrow account for safekeeping established by the Director of Commerce. When the individual furnishes satisfactory proof of entitlement to the amount deposited, the Director of Commerce shall pay to the individual the amount due.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Four, 4.166)

PART FIVE – SAVINGS CLAUSE

12.258 SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this Statute found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such phrase, part, 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.

(Source: WOS 2003-07, August 3, 2003, Chapter 1, Part Five)

Chapter 2(A). Secured Transactions

12.201(A) TITLE, PURPOSE

A. This Statute may be cited as the "Little Traverse Bay Bands of Odawa Indians Secured Transactions Statute."

B. The purpose of this Statute is to recognize that under Tribal law, except as otherwise provided in this Statute, secured parties shall have the same rights with respect to collateral located on lands subject to the sovereign authority of the Tribe as would

exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection and priority) had been governed by the Michigan UCC, without regard to the choice of law principles set forth therein.

(Source: WOS 2005-09, August 21, 2005, Section I)

12.202(A) DEFINITIONS

In this Statute the terms listed below have the following meanings:

A. "**Michigan UCC**" means the Uniform Commercial Code of the State of Michigan, as amended from time to time.

B. **"Pledged Revenues**" means all of a Tribal Party's money, earnings, income and revenues, and all of the Tribal Party's rights to and interest with respect to receiving the foregoing before actual possession thereof, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.

C. "**Tribal Council**" means the Tribal Council of the Little Traverse Bay Bands of Odawa Indians.

D. "**Tribal Lands**" means all lands within the Tribe's reservation and all lands held by the United States in trust for the benefit of the Tribe over which the Tribe exercises jurisdiction.

E. "**Tribal Party**" means the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, instrumentality, or entity wholly-owned or wholly-controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.

F. "**Tribe**" means the Little Traverse Bay Bands of Odawa Indians, a federally recognized Indian tribe.

G. Any undefined terms that are defined in the Michigan UCC are used in this Statute with the meanings that apply in the Michigan UCC.

(Source: WOS 2005-09, August 21, 2005, Section II)

12.203(A) SCOPE

A. This Statute shall apply only with respect to those security interests that (i) are granted by a Tribal Party, and (ii) are expressly stated to be subject to and governed by this Statute by resolution of the Tribal Council.

B. Once applicable to any security interest, this Statute shall remain in effect with respect to that security interest until all obligations secured thereby have been fully and finally discharged or otherwise fully satisfied, except that this Statute may be amended in any manner that is not adverse to any secured party with respect to any security interest.

(Source: WOS 2005-09, August 21, 2005, Section III)

12.204(A) LAWS APPLICABLE TO SECURITY INTERESTS

A. With respect to collateral located on Tribal Lands, except as provided elsewhere in this Section IV, the rights and obligations of any person shall be governed by the Michigan UCC, including those rights and obligations related to perfection and enforcement of a security interest, or arising after a default.

B. Except as provided elsewhere in this Statute, the perfection, effect of perfection or nonperfection and priority of any security interest to which this Statute applies shall be determined in accordance with the Michigan UCC.

(Source: WOS 2005-09, August 21, 2005, Section IV)

12.205(A) ENFORCEMENT JURISDICTION

Notwithstanding anything to the contrary in the Michigan UCC, jurisdiction to enforce security interests against a Tribal Party shall lie solely within the LTBB Tribal Courts or Federal Courts as specified in the Tribal Council resolution authorizing the application of this Statute.

(Source: WOS 2005-09, August 21, 2005, Section V)

12.206(A) 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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 if the overall intent is intact. To the extent any provision of any law, statute, resolution, motion or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Statute, the provision of this Statute shall supercede and the conflicting provision shall be and hereby is repealed as it shall apply to a security interest to which this Statute applies.

(Source: WOS 2005-09, August 21, 2005, Section VI)

12.207(A) EFFECTIVE DATE

This Statute shall take effect upon the date of its enactment by the Tribal Council.

(Source: WOS 2005-09, August 21, 2005, Section VII)

Chapter 3. Business Assumed Name

12.301 PURPOSE

This Statute is hereby enacted to authorize entities or individuals to do business under assumed names.

(Source: WOS 2006-009, June 16, 2006, Section I)

12.302 DEFINITIONS

A. The "**Tribe**" shall mean the Little Traverse Bay Bands of Odawa Indians.

B. "**Legal Business Entity**" shall mean any corporation registered to do business within the jurisdiction of the Tribe, a partnership, a limited partnership, or any other form of business entity authorized to do business within the Tribe's jurisdiction.

(Source: WOS 2006-009, June 16, 2006, Section II)

12.303 APPLICATION

A. Individuals and any form of legal business entity shall have the authority to Do Business As (DBA) an entity with an assumed name.

B. The Economic Development Department (EDD) or its successor shall be responsible for implementation of this statute.

(Source: WOS 2006-009, June 16, 2006, Section III)

12.304 RESTRICTIONS

Fees for registration shall not exceed $15 for a period of ten years.

(Source: WOS 2006-009, June 16, 2006, Section IV)

12.305 REGULATIONS REQUIRED

The Tribal Executive shall develop regulations to implement this statute.

(Source: WOS 2006-009, June 16, 2006, Section V)

12.306 PROCEDURES REQUIRED

None.

(Source: WOS 2006-009, June 16, 2006, Section VI)

12.307 APPROPRIATIONS AUTHORIZED

The EDD has already been funded. The Executive shall make recommendations for future budgets to implement this statute.

(Source: WOS 2006-009, June 16, 2006, Section VII)

12.308 EXECUTIVE AUTHORITY

The Tribal Executive is hereby mandated to implement this Act and to enforce all approved Tribal Codes of Regulation.

(Source: WOS 2006-009, June 16, 2006, Section VIII)

12.309 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.

(Source: WOS 2006-009, June 16, 2006, Section IX)

12.310 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council

override of the veto.

(Source: WOS 2006-009, June 16, 2006, Section X)

TITLE XIII. MARRIAGE AND PROBATE

Chapter 1. Marriage

13.101 GENERAL

A. **Short title**. This Statute shall be known and may be cited as the Marriage Act of 2006.

B. **Purpose**. The purpose of this act is to govern the making of marriages under Tribal law.

(Source: WOS 2007-001, January 26, 2007, Section I)

13.102 DEFINITIONS

A. "**Adult**" means a person eighteen (18) years of age or older.

B. "**Indian**" means a member of the Little Traverse Bay Bands of Odawa Indians, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person within the Tribe's territory as defined in the Tribe's Constitution who is recognized by the community as an Indian, including a Canadian Indian or Alaska native.

C. "**LTBB**" or "**Tribe**" means the Little Traverse Bay Bands of Odawa Indians.

D. "**Marriage**" means the legal and voluntary union of one man and one woman, to the exclusion of all others.

E. "**Marriage Clerk**" means the Little Traverse Bay Bands of Odawa Indians staff person responsible for filing and maintaining records under this Statute.

F. "**Territory**" means the territory of the Tribe as defined in the Tribe's Constitution.

G. "**Tribal Court**" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians as defined in the LTBB Constitution.

(Source: WOS 2007-001, January 26, 2007, Section I)

13.103 MARRIAGE AND THE CAPACITY TO MARRY

A. **Marriage as a civil contract**. To be valid, and for purposes of this law, marriage is a civil contract, to which the consent of parties capable of making it is necessary. Consent alone will not constitute a marriage. A marriage relies upon the issuance of a license, a ceremony solemnizing the marriage, and the issuance of a marriage certificate.

B. **Capacity to consent**. A person seeking to be married must fulfill each of the following requirements:

1. Freely consent to the marriage and have the mental capacity to marry;

2. Be an enrolled LTBB Citizen and domiciled within Tribal territory, or a person who consents to the civil jurisdiction of the Tribe;

3. Be at least eighteen (18) years of age or older as evidenced by a birth certificate, be at least sixteen (16) years of age as evidenced by a birth certificate with the consent of a parent or legal guardian, which consent must be notarized, or has been emancipated by a court of competent jurisdiction;

4. Not have an existing spouse;

5. Not be blood relatives to each other in any of the following degrees:

a. Parent and child;

b. Grandparent and grandchild;

c. Brother and sister, or half-brother and half-sister;

d. Uncle and niece, or aunt and nephew; or

e. Cousins in the first degree.

C. Recordkeeping of applications for marriage and marriage licenses. All applications for marriage licenses and copies of all marriage licenses issued shall be filed with the Marriage Clerk and maintained as permanent records of the Tribe.

(Source: WOS 2007-001, January 26, 2007, Section II)

13.104 MARRIAGE LICENSES

A. Application for Marriage License. All persons wishing to be married in accordance with this act shall obtain a marriage license from the Marriage Clerk. The application to obtain a marriage license shall be in the form of an affidavit and shall contain the following information for each person:

1. Full legal name, including last name before first marriage, if previously married;

2. Home mailing and street address,

3. Age;

4. Sex;

5. Tribal affiliation, if any;

6. Present age and date and place of birth;

7. If either party was previously married, his or her name, and the date, place, and Court in which the marriage was dissolved or declared invalid or the date and Place of death of the former spouse;

8. The names of each person's parents and the place of birth for each parent, if known. For each person's mother, the mother's name before first marriage shall be identified, if known;

9. If either person is a minor, the name and address of the parents, adoptive parent, or guardian of each party; or if emancipated, certified copies of papers granting emancipation;

10. Whether the parties are related to each other and, if so, their relationship;

11. The name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated;

12. If either person is not an enrolled Tribal Citizen or does not reside within the Tribe's Territory, a statement that such person consents to the civil jurisdiction of the Tribe.

B. Authority of Marriage Clerk to issue marriage licenses.

1. A Marriage Clerk shall have the power to issue a marriage license where each of the parties is either an enrolled Tribal Citizen, a resident of the Tribe's Territory, or a person who consents to the civil jurisdiction of the Tribe.

2. A Marriage Clerk shall issue a marriage license with in three (3) working days from the date that the applicants submit the following:

a. a properly-completed application for a marriage license on a form prescribed by the Marriage Clerk;

b. payment of a license fee not to exceed $25.00; and

c. verification by the Marriage Clerk that each of the parties is an enrolled Tribal Citizen, a resident of the Tribe's Territory, or a person who consents to the civil jurisdiction of the Tribe.

C. Validity of License. A marriage license shall be valid for thirty (30) days from the date of issuance.

(Source: WOS 2007-001, January 26, 2007, Section III)

13.105 SOLEMNIZATION OF MARRIAGE

A. Qualification to perform marriages.

1. The following persons shall be qualified to perform marriages under this Statute:

a. A medicine person or traditional spiritual leader;

b. Clergymen duly designated by the governing body of his or her faith as having the authority to perform marriages;

c. A Tribal Court Judge of the Tribal Court or Justice of the Tribal Court of Appeals;

d. The Tribal Chairperson;

e. A Tribal Judge of a Court of another federally recognized Tribe who is authorized by Tribal law to perform marriages; and

f. Any person who is deemed qualified by the persons being married.

B. Permissible location. A marriage performed in accordance with this act shall be solemnized at any location.

C. Examination of marriage license. Prior to the marriage ceremony, the person performing the ceremony shall review the marriage license and determine that the persons seeking to be married are the persons named on the license. For that purpose, the person performing the ceremony may administer oaths and examine the identification of the persons seeking to be married.

D. Marriage ceremony. A marriage ceremony performed under this act need not take any particular form, but the persons seeking to be married must declare in the presence of the person performing the ceremony, and in the presence of two adult witnesses, that they receive each other as spouses.

E. Completion of License. After the ceremony, the person who performed the marriage ceremony shall sign and endorse the marriage license with a statement that shall include their name, address, and title; the time and place of the ceremony; and the names and places of residence of two witnesses. The two witnesses shall also sign the marriage license.

(Source: WOS 2007-001, January 26, 2007, Section IV)

13.106 PROCEDURE FOR RECOGNITION OF MARRIAGES AFTER SOLEMNIZATION

A. Return of fully-executed marriage license to the Marriage Clerk. Following the marriage ceremony, the fully executed marriage license shall be returned to the Marriage Clerk within seven (7) days.

B. Endorsement of marriage license by Marriage Clerk. The Marriage Clerk must endorse upon each copy its date of receipt.

C. Marriage Clerk issuance of marriage certificate. Upon receipt of a fully-executed marriage license and a copy of the marriage license application, the Marriage Clerk must examine the application, the license, and the signatures of the witnesses and the person performing the marriage to ensure that the information appearing is complete and that the marriage was performed in accordance with the provisions of the license. Upon a determination that the application, the license, and the signatures are in proper form, and that there has been compliance with the terms of the license, the Marriage Clerk shall endorse its approval upon the license, shall cause a certificate of marriage to be issued, and deliver a copy of the marriage license to the persons for whom it was issued.

D. Storage of marriage certificate records. The Marriage Clerk shall file the certificate of marriage together with the application for marriage license and the marriage license with the permanent records of the Tribe.

E. Obtaining certified copies of marriage certificate. Should the parties to any marriage performed under the auspices of these provisions desire that a marriage certificate be filed or recorded in another jurisdiction, they may obtain certified copies from the Marriage Clerk at a fee not to exceed $25.00.

(Source: WOS 2007-001, January 26, 2007, Section V)

13.107 RECOGNITION OF FOREIGN MARRIAGES; AFFIRMANCE OF PAST TRIBAL COURT MARRIAGES

A. Recognition of foreign marriages. The Little Traverse Bay Bands of Odawa Indians shall recognize as valid and binding any marriage formalized or solemnized in compliance with the laws of the place of formalization or solemnization, except that a marriage contract entered into between individuals of the same sex is not deemed valid in this Tribe.

B. Prior Tribal Court Marriages. The Little Traverse Bay Bands of Odawa Indians affirms the validity and binding nature of all marriages performed by a member of the Tribal Judiciary prior to the effective date of this Statute.

(Source: WOS 2007-001, January 26, 2007, Section VI)

13.108 SEVERABILITY

If any section or provision of this Statute, or amendment made by this Statute, is found invalid, the remaining sections or provisions of this Statute and amendments made by this Statute shall continue in full force and effect.

(Source: WOS 2007-001, January 26, 2007, Section VII)

13.109 EFFECTIVE DATE

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

(Source: WOS 2007-001, January 26, 2007, Section VIII)

Chapter 2. Dissolution of Marriage

13.201 PURPOSE AND TITLE

The Little Traverse Bay Bands of Odawa Indians finds that the Tribe's interest over family relations is an integral part of tribal self-government and the Tribe's history and culture, that it is exceedingly important to the Tribe to support the preservation of families, that families thrive when they receive appropriate emotional and financial support, and that the lives of children and families improve by strengthening parental responsibility for family and child support. The Tribe encourages the protection and preservation of the continuity of family, but recognizes that in the event of dissolution of marriage, divorce proceedings need uniform, efficient and equitable ways to provide for the dissolution of the marriage.

(Source: WOS 2008-007, May 31, 2008, Section I)

13.202 DEFINITIONS

1. *"Court"* means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

2. *"Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means *"areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

3. *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-007, May 31, 2008, Section II)

13.203 JURISDICTION

The Court shall have jurisdiction over divorce proceedings for the dissolution of marriage, including issues of child custody, child support, division of property, or alimony where at least one (1) party to the proceedings is a Tribal Citizen of the Little Traverse Bay Bands of Odawa Indians and has been a bona fide resident of the Tribal Jurisdiction for a period of at least 180 days prior to the filing of the action.

(Source: WOS 2008-007, May 31, 2008, Section III)

13.204 SIMPLE DISSOLUTION

1. An action for Simple Dissolution shall be commenced by the filing of a joint petition by the parties that contains the following:

a) The full legal name, address, social security number and drivers license number of each party to the marriage;

b) The Tribal Citizenship number of at least one of the parties;

c) A statement that at least one of the parties have resided within the Tribal jurisdiction for six months immediately before the filing of the petition;

d) A statement that the parties have no children under the age of 18, unless emancipated, or no dependent children together, and the wife is not pregnant,

e) The maiden name of the wife and/or her name prior to the marriage if different;

f) The date and location of the marriage;

g) The date and location of the separation of the parties;

h) A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, or that the parties have lived separate and apart for one (1) year;

i) A proposed division of marital property and debt that contains provisions about how personal belongings, assets, property, and their debts are going to be divided once the parties are no longer married. Or a statement that there are no personal belongings, assets, debts, or property such as homes, cars, etc;

j) A statement that neither party is requesting alimony.

2. A simple dissolution shall be granted by the Court without a hearing.

(Source: WOS 2008-007, May 31, 2008, Section IV)

13.205 DISSOLUTION OF MARRIAGE

1. A decree of dissolution of marriage shall be granted without regard to the fault of the parties and upon a finding that the marriage has broken down irretrievably, and that there remains no reasonable likelihood that the marriage can be preserved; or the parties have mutually and voluntarily lived separate and apart without cohabitation for a period of at least one (1) year immediately prior to the filing of the petition for divorce.

2. An action for divorce shall be commenced by the filing of a petition by one of the parties and shall contain the following:

a) The full legal name, address, social security number and drivers license number of each party to the marriage;

b) The Tribal Citizenship number of at least one of the parties;

c) The names and birth dates of any children born of the marriage or of any children born prior to the marriage where the husband is asserted to be the father;

d) A statement as to whether or not the wife is pregnant at the time the petition is filed;

e) The maiden name of the wife and/or her name prior to the marriage if different;

f) The date and location of the marriage;

g) The date and location of the separation of the parties;

h) A proposed division of marital property and debt, and custody of children, if any.

i) A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, or that the parties have lived separate and apart for one (1) year.

3. The non-petitioning party may file a response to the petition within thirty (30) days of receipt of the petition.

4. The response may state the facts and circumstances which show that there are no valid grounds for divorce, or may seek a division of property, child custody arrangement, or other relief different than that proposed by the petitioner.

5. A copy of the response must be served on the petitioning spouse.

6. Following a petition for divorce, and after the opportunity for the non-petitioning party to respond, the Tribal Court shall hold a hearing unless the parties have stipulated to all matters and issues pending.

7. If the parties stipulate, and the Tribal Court is convinced that the stipulation is fair and equitable, the court may enter a decree without a hearing.

8. If minor children are involved, the Court may order the parties to counseling, continue the action for a maximum of three months to enable the parties to reconcile, or take such other actions as may be in the best interests of the parties or the minor children of the marriage.

9. Hearings shall be held within six (6) months of the date that the petition is filed, with actions involving the custody of minor children taking precedence over all other civil cases.

10. At the hearing, both parties shall have the opportunity to testify, call witnesses, present evidence and cross-examine their spouse and any other witnesses.

11. The intentional filing of groundless petitions shall result in the imposition of sanctions.

12. A final order of the Tribal Court may be appealed in the same fashion and manner as any other order of the Court.

(Source: WOS 2008-007, May 31, 2008, Section V)

13.206 DIVISION OF PROPERTY

When a divorce is granted, the Court shall order distribution of all real and personal property in an equitable fashion and shall allocate the marital financial obligations of the parties, in whole to either party, or partially to each party.

(Source: WOS 2008-007, May 31, 2008, Section VI)

13.207 ALIMONY

1. After the equitable distribution of assets and liabilities, the Court may grant alimony to either party, in a lump sum payment or in periodic payments or both.

2. The Court shall consider the length of the marriage, the age, physical and emotional conditions of each of the parties and all sources of available income to either party, and fault shall not be a consideration.

3. Such order may be modified, on motion of either party to reflect changes in either party's economic circumstances.

4. Groundless filings may result in the imposition of sanctions.

5. The Court, upon motion, shall terminate alimony to any spouse who has remarried or upon the death of either party.

(Source: WOS 2008-007, May 31, 2008, Section VII)

13.208 CHILD CUSTODY, VISITATION AND SUPPORT

1. In any action for divorce, the Court shall have the authority to determine the custody of any children under eighteen (18) years of age. The Court shall have jurisdiction to award custody of the minor children of the marriage to one of the parties or to a third person.

2. The Court may grant custody to one (1) parent, or may grant joint custody. The court shall specify the period(s) when each parent shall have custody and shall determine the visitation rights (if any) of the non-custodial parent. The Court shall determine custody in accordance with the best interest of the child and shall consider all relevant factors including:

a) the wishes of the child(ren)'s parent or parents as to the custody;

b) the wishes of the child(ren) as to custody, provided that the child(ren) are of sufficient age to exercise discretion. These wishes may be weighed by the Court, but are not controlling to the Court's decision. The Judge will meet with the child(ren) in his or her chambers to discuss the child(ren)'s wishes;

c) the interaction and interrelationship of the child with his or her parent or parents, siblings and any other person who may significantly affect the child's best interest;

d) the child's adjustment to his or her home, school and the tribal community;

e) the mental and physical health of all individuals involved;

f) the capacity and disposition of the custodian parent to allow the child frequent and continuing contact with the non-custodial parent(s) and the child(ren) whenever possible.

3. The Court shall not consider conduct of a proposed custodian that does not affect his or her relationship to the child.

4. The Court shall have no presumption that one parent is better suited to be a custodian because of gender.

5. Differences in financial circumstances alone shall not be a deciding factor in the determination of custody.

6. The Court shall have the authority to require the non-custodial parent to pay such sum as the Court may determine appropriate and proper for the support and maintenance of the child(ren).

7. The Court shall designate visitation for the non-custodian parent or parent(s) and shall provide for the foster and expansion of the relationship between the non-custodial parent(s) and the child(ren) whenever possible, unless the Court finds, after a hearing, that visitation would endanger seriously the child's physical, mental or emotional health.

8. The Court, upon petition of either party, or any third party to whom custody or visitation of the minor child(ren) may be awarded, may revise, amend or alter any order concerning the care, custody, support or visitation rights with any minor child(ren) consistent with the best interests of the child or children.

9. Changes in domicile where the custodial parent wants to move out-side of the Tribal Territorial Jurisdiction, shall require prior Court approval. The Court shall consider the following factors:

a) consent of both parents;

b) prospective advantages of the move for improvement of the general quality of life for the custodial parent and child(ren);

c) the likelihood of the custodial parent complying with the Tribal Court Order once he or she in no longer resides within the Tribal Territory;

d) the extent to which there will be a realistic opportunity for non-custodial visitation which can continued to foster the relationship between the non-custodial parent(s) and the child(ren).

10. Both custodial and non-custodial parents shall notify the Court of any changes in domicile or residency.

11. When the Court has ordered periodic support payments under this code, and the parent does not pay as ordered, the Court shall use the same methods to collect these payments as it would to enforce any money judgment in a civil action, including contempt.

(Source: WOS 2008-007, May 31, 2008, Section VIII)

13.209 TEMPORARY INTERIM ORDERS

1. The Court may issue temporary orders during the pending of all proceedings involving child custody, child support, visitation, alimony and the possession of real and personal property.

2. Such orders may be granted upon the motion of either party or on the Court's own motion. A hearing shall be held prior to the issuance of such orders, unless the Court determines that an emergency exists or a party cannot be found, in which case such orders may be issued ex-parte.

3. Emergency may be interpreted to include, but not limited to:

a) a danger of physical abuse to the spouse or the parties child(ren);

b) severe emotional abuse;

c) a lack of means for interim subsistence; or

d) the danger that the child(ren) will be removed from jurisdiction.

4. If the initial order is issued ex-parte, a full hearing on the temporary order shall be held within fourteen (14) days.

(Source: WOS 2008-007, May 31, 2008, Section IX)

13.210 ENFORCEMENT

When either party to a divorce proceeding shall fail willfully to comply with an order of the Tribal Court, the other party may file a petition with the Court alleging such failure. The Court shall then issue notice to the party, which shall include a copy of the petition, and set a date for the hearing. At the hearing, the Court shall take testimony as to the alleged failure to comply with its order, and issue any order which it shall deem just and proper under the circumstances

(Source: WOS 2008-007, May 31, 2008, Section X)

13.211 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-007, May 31, 2008, Section XI)

13.212 EFFECTIVE DATE

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

(Source: WOS 2008-007, May 31, 2008, Section XII)

Chapter 3. Probate Code

13.301 PURPOSE

The purpose of this Statute is to provide for the distribution of estates upon the death of Tribal citizens and others within the jurisdiction of the Little Traverse Bay Bands of Odawa Indians ("LTBB").

(Source: WOS 2006-020, November 22, 2006, Section I)

13.302 JURISDICTION

Upon the death of a Tribal citizen, or of any person domiciled within the LTBB reservation, the Tribal Court has jurisdiction to determine the heirs of the decedent, the claims of creditors, and the distribution of property under this Statute. The Court's jurisdiction in probate matters shall cover all of the decedent's real and personal property, including that which is located outside of the Reservation, and any debts owed to the decedent.

(Source: WOS 2006-020, November 22, 2006, Section II)

13.303 COVERAGE OF THIS STATUTE

The provisions of this Statute shall be used to distribute the assets of any person domiciled on the Reservation owning assets valued at more than $15,000.00 (fifteen thousand dollars). In the event a person domiciled on the Reservation dies owning $15,000.00 (fifteen thousand dollars) or less in assets the Court shall not have jurisdiction to probate the estate.

(Source: WOS 2006-020, November 22, 2006, Section III)

13.304 DEFINITIONS

For purposes of this Statute, the terms below are defined as follows:

A. "**Beneficiary**": A beneficiary is a person who is designated to receive something from a legal arrangement or instrument, for example, property designated pursuant to a decedent's valid will, income from a trust, or the proceeds from an insurance policy.

B. "**Decedent**": A decedent is a deceased person with interests to be determined as demonstrated within this Statute.

C. "**Heir**": An heir is a person who is entitled under this Statute, based upon a family relationship to the decedent, to receive the property of a decedent who dies without a will.

D. "**Holographic Will**": A holographic will is one that is written entirely by the decedent that is not witnessed or otherwise does not fully comply with the requirements for a will under this Statute.

E. "**Immediate Family**": The immediate family is generally comprised of the surviving spouse, parents, grandparents, son(s), daughter(s), brother(s) and sister(s) of the decedent.

F. "**Legally Incompetent**": A person is legally incompetent when a court has determined that the person is mentally or physically unable or unfit to comprehend the nature and consequences of legal proceedings.

G. "**Minor**": A minor is a person who has not reached age eighteen (18).

H. "**Marriage**": The legal union of a man and a woman as husband and wife, generally pursuant to a Tribal or state license, and made official by a formal ceremony.

I. "**Probate**": Probate is the legal process by which applicable Tribal common and written law, state law, or federal law that affects the distribution of the decedent's estate is applied to determine the decedent's heirs, approve wills and beneficiaries, and transfer

any personal or real property held in trust by a trustee for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.

J. "**Real Property**": Real property includes all improvements and fixtures upon land; that which is incidental and appurtenant to land; all rights, interests, privileges, easements, and encumbrances relating to land, including tenancies and liens of judgment, mortgage, or otherwise; and any portion of these, except that such term shall never include subsurface rights or the title or ownership interest in tribal, trust, or otherwise restricted land.

K. "**Testator**": A person who has written a will.

(Source: WOS 2006-020, November 22, 2006, Section IV)

13.305 LIMITED JURISDICTION OVER TRANSFERS INVOLVING REAL PROPERTY

The Court may effectuate transfers of land assignments or permanent structures affixed to the land, in accordance with codified Tribal Property and Housing law.

Once the transfer is complete, the Court shall forward a copy of the "transfer" to the Executive Branch for record-keeping purposes. The Court may only effectuate transfer title of real property if the decedent owned the property in fee, with no tribal or federal ownership interests or restrictions.

(Source: WOS 2006-020, November 22, 2006, Section V)

13.306 PETITION FOR ADMINISTRATION OF ESTATE OR FOR PROBATE OF WILL

A. **Filing**. The surviving spouse, or if none, any family member of the decedent, the personal representative as designated in decedent will, or a creditor of the decedent may file a probate petition. In the case of an unmarried minor, a legal guardian, or person appointed by the Court if a ward of the Court, may file the petition.

B. **Time for Filing**. The petition should normally be filed within sixty (60) days of the death of decedent.

C. **Form of Filing**. The petition shall contain the following information:

1. The date and location of death of decedent and age of decedent at time of death;

2. A statement of the decedent's tribal affiliation, if any;

3. The name of the person filing the petition, tribal enrollment number, if any, age, residence, and relationship to the decedent;

4. A statement that the decedent left no will, or that the will is filed with the petition and offered for probate;

5. The names, ages, and relationship to the decedent of all known heirs of decedent, and if decedent dies with a will, the names, ages, and relationship, if any, of all beneficiaries under the will;

6. A detailed statement of assets and approximate value of each;

7. A list of names and addresses of the decedent's creditors, including all possible creditors that the petitioner can reasonably determine by reviewing the decedent's financial records and papers; and

8. A general list of items that were buried/burned with decedent not to be distributed.

D. **Minor or Legally Incompetent Heirs**. Upon the filing of the petition for administration, the Court shall ascertain whether or not there are any heirs, legatees, or devisees under the age of eighteen (18) years or legally incompetent heirs. If so, the

Court shall appoint a guardian ad litem to represent the minor or legally incompetent heir's interests until the determination of distribution of belongings is final. The Court will give careful attention to all actions concerning that of a minor individual under eighteen (18) years of age or a legally incompetent heir.

(Source: WOS 2006-020, November 22, 2006, Section VI)

13.307 APPROVAL OF WILLS

A. When any member of the LTBB Community dies, the Tribal Court shall at the request of any interested party determine the validity of the will after giving notice and full opportunity to appear in Court to tell all persons who might be beneficiaries of the decedent. The Court shall provide actual notice of the proceedings to each beneficiary designated in decedent's will. In the event of a will contest, the Court shall try the case according to rules and procedures relating to civil cases in the LTBB Tribal Court. Normally challenges to a will should not be accepted after a final probate order is issued.

B. **Formal Will**. A will shall be deemed valid if (1) the decedent had a sane mind and understood what s/he was doing when s/he made the will, (2) the decedent was not subject to any undue influence of any kind from any person, and (3) if the will was made in writing and signed by the decedent and one (1) witness. The witness cannot be a beneficiary under the will or have a significant interest in the outcome of the will. If the Court determines the will to be validly executed, it shall issue a final probate order, stating that the property described in the will be given to the persons named in the will or, in the event that a person named in the will predeceases the testator, to their heirs of that person in accordance with this Statute.

C. **Holographic Wills**. The Court has discretion to determine the validity of a decedent's holographic will. The Court may consider evidence including, but not limited to, affidavits or testimony verifying that the will was hand-written by the decedent and that the decedent was not subject to duress when writing the will. If the Court determines that the holographic will is valid, it shall issue a final probate order, stating that the property described in the will be given to the persons named in the will or, in the event that a person named in the will predeceases the testator, to their heirs of that person in

accordance with this Statute.

D. Invalid Will; Property Not Accounted for in Decedent's Will. Where the Court finds that the decedent's will is invalid, the Court shall order the administration of decedent's estate as if the decedent had died without a will. Where the Court finds that there is property of the decedent that was left out of a valid will and no other lawful instrument designates a beneficiary, the Court shall order distribution of the undesignated property, by following the procedures under this Statute where the decedent dies without a will.

E. Beneficiary Criminally Responsible for the Death of the Decedent. Any beneficiary or any heir of the decedent found to be criminally responsible for the death of the decedent shall not be entitled to inherit or receive any interest of the decedent's estate.

(Source: WOS 2006-020, November 22, 2006, Section VII)

13.308 ADMINISTRATION OF ESTATE WHERE DECEDENT HAS NO WILL

Administration of a decedent's property commences by filing a petition for administration with the Tribal Court. Once the probate petition is filed, pursuant to Section VI of this Statute, the Tribal Court shall order distribution of the decedent's assets remaining after satisfaction of the debts and expenses of the estate as follows in the event it determines that no valid will exists:

A. If a spouse survives decedent, all assets shall be distributed to the surviving spouse;

B. If there is no surviving spouse, all assets shall be distributed equally to decedent's surviving children;

C. If there is no surviving spouse or children, all assets shall be distributed to decedent's surviving parent/s;

D. If there is no surviving spouse, children or parents, all assets shall be distributed

equally among decedent's grand-children;

E. If there are no surviving persons listed in A-D, all assets shall be distributed equally among decedent's surviving sibling/s;

F. If there are no surviving persons listed in A-E, all assets shall be distributed equally to decedent's surviving first cousin/s;

G. If there are no surviving persons listed in A-F, any real property in the Reservation shall escheat to LTBB; any other assets shall be distributed as the Court deems equitable to close friends or caretakers of the decedent.

(Source: WOS 2006-020, November 22, 2006, Section VIII)

13.309 DETERMINATION OF HEIRS AND DISTRIBUTION OF PROPERTY

A. In the case of a decedent without a will, the Court will make such inquiries of the petitioner, family members, the Enrollment Office or other sources as it deems necessary to make sure the list of heirs is submitted with the petition is compete.

B. In the case of multiple heirs and mixed financial, personal property and or real property assets, the Court shall hold hearings as it deems necessary to determine equitable distribution. Provided, a distribution plan submitted jointly by all affected heirs shall be presumed equitable.

(Source: WOS 2006-020, November 22, 2006, Section IX)

13.310 NOTICE TO CREDITORS

A. Once the Court receives the list of creditors in the Probate petition, the Court shall mail notice to each creditor listed that probate proceedings have commenced for the possessions of the decedent. Proof of mailing shall be filed in the case record.

B. For creditors who may be unknown or are not reasonably ascertainable, the Court

shall issue a notice to creditors by publication. The notice shall be published on the Tribal website, in a Tribal newspaper and in one other local newspaper of general circulation for two consecutive publication dates and proof of publication shall be filed in the case record.

C. The last date for creditors to file claims against the estate shall be forty--five (45) days from receipt of notice or from the second date of publication, and are thereafter barred from any claim.

D. Claims shall have the following order of priority:

1. Court costs for actual notice and publication for creditor's claims, and actual notice and publication for determining heirs;

2. Debts owing for expenses of decedent's last illness and subsequent funeral charges not covered by LTBB;

3. Claims of indebtedness to the Little Traverse Bay Bands of Odawa Indians;

4. Debts owing to members of the Little Traverse Bay Bands of Odawa Indians;

5. Claims of all other creditors.

(Source: WOS 2006-020, November 22, 2006, Section X)

13.311 PAYMENT OF CREDITOR' CLAIMS

A. All tangible personal property of the decedent that is of a unique keepsake nature, such as art, family heirlooms and photographs, is exempt from sale to pay for claims of creditors. The Court shall not order sale of such tangible personal property of the decedent to satisfy any liens or judgments of creditors.

B. Decedent's remaining Per Capita funds are subject to satisfaction of liens or judgments of creditors.

(Source: WOS 2006-020, November 22, 2006, Section XI)

13.312 FORM OF PROBATE PLEADINGS

The Tribal Court shall determine what documents must be filed in a probate case.

(Source: WOS 2006-020, November 22, 2006, Section XII)

13.313 SEVERABILITY

If any section or provision of this Statute, or amendment made by this Statute, is found invalid, the remaining sections or provisions of this Statute and amendments made by this Statute shall continue in full force and effect.

(Source: WOS 2006-020, November 22, 2006, Section XIII)

13.314 EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2006-020, November 22, 2006, Section XIV)

TITLE XIV. EMPLOYMENT

Chapter 1. Fair Employment

14.101 PURPOSE AND TITLE

The Little Traverse Bay Bands of Odawa Indians, in preserving tribal heritage while adapting to

the present world, has established the Tribal Government Administration, and other commercial enterprises, including the Odawa Casino Resort and other ancillary enterprises to generate governmental services and revenues to promote health, education, Anishinaabe culture, safety and welfare of the Tribe and Tribal Citizens. Each employee of the Tribal Governmental Administration and the Odawa Casino Resort and ancillary enterprises is an intrinsic part of the Tribe's future and its success for future generations. Based on traditional cultural values, Little Traverse Bay Bands of Odawa Indians creates this Statute to ensure fair employment rights and the exercise and enforcement of such rights.

(Source: WOS 2008-011, October 5, 2008, Section I)

14.102 DEFINITIONS

A. *"Employee, Individual Contributor, or Team Member"* means an individual employed by the Little Traverse Bay Bands of Odawa Indians including Tribal Government Administration, commercial entities and the Odawa Casino Resort and ancillary enterprises and activities beginning on the first day of work and after the employment process and issuance of a temporary gaming license. The first ninety (90) days and up to a maximum of one-hundred and eighty (180) days of employment shall be considered an "Introductory Period." Independent contractors are excluded.

B. *"Employer"* means all departments and agencies of the Tribal Government Administration and commercial entities of the Little Traverse Bay Bands of Odawa Indians, including the Odawa Casino Resort and ancillary enterprises and activities.

C. *"Indian Gaming Regulatory Act"* means 25 U.S.C. §§ 2701-2721.

D. *"Malice"* means the intent, without just cause or reason, to commit a wrongful act that will result in harm to another.

E. *"Management or Manager"* means any individual employed by the Tribal Government Administration, commercial entities, including the Odawa Casino Resort and ancillary enterprises and activities who has the authority, acting in the interest of Tribe, to cause another employee to be hired, transferred, suspended, laid off, recalled, promoted, discharged, assigned,

rewarded or disciplined, either by taking such action or by recommending it to a superior; or who has the authority and responsibility to direct other employees. The exercise of this authority is not of a merely routine or clerical nature, but requires the exercise of independent judgment.

F. *"Odawa Casino Resort"* means the gaming enterprise, including related hotel and restaurant services and ancillary enterprises and activities, of the Tribe located at, or near 1760 Lears Road, Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

G. *"Reckless indifference"* means conscious or reckless disregard of the consequences of one's acts or omissions.

H. *"Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means *"areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

I. *"Tribal Government Administration"* the operations and employees of the Tribal Government that provides for inherent self-governing authority as a federally recognized Indian tribe through its governmental activities expressly recognized or supported by Congress, including, but not limited to (1) the provision of health, housing, education, and other governmental services and programs to its members; (2) and the exercise and operation of its administrative, regulatory, and police power authorities within its territorial jurisdiction.

J. *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-011, October 5, 2008, Section II)

14.103 TRIBAL COURT

A. The Tribal Court shall have the jurisdiction to hear charges of violations of rights afforded by this Statute within the confines of Tribal employment for employees of the Little Traverse Bay Bands of Odawa Indians including violations by third-parties.

B. This Statute does not provide for Tribal Court jurisdiction over limitation of employment based on economic necessity, such as lessening of hours of work, demotions and/or re-organization or restructuring, provided that business decisions are fair and equitable criteria including:

1. Equal treatment – Team Members shall be considered for layoff without regard for sex, race, color, age, religion, national origin, sexual orientation, disability, or veteran status.

2. Introductory Period – In cases of restructuring or reduction in force, employees who are in their initial 90 day introductory status and are in the job classifications(s) identified within the department specified for reduction in force shall be terminated. They will have no recall rights.

3. Skills and Abilities – a Team Member who does not possess the necessary skills and abilities required to perform the duties for the continued operation of the department shall be selected as an affected employee.

4. Performance – the average of the overall ratings on the three most recent written performance appraisals within the department submitted to the Human Resources Department, as well as other performance-related documents on department file shall be considered in selecting impacted employees.

5. Length of Service with the Company – the employee's length of continuous service to the Company shall be considered in selecting impacted employees. The employee(s) with the longest length of service shall be affected last after consideration of the above items.

6. Employees on Approved Leave of Absence – an employee on any approved leave of absence during an impacted period may be affected in accordance with the above considerations.

(Source: WOS 2008-011, October 5, 2008, Section III)

14.104 LIMITED WAIVER OF SOVEREIGN IMMUNITY

A. The Tribe clearly and expressly waives its sovereign immunity to the Equitable Remedies as set forth in this Statute and clearly and expressly waives its sovereign immunity to Damages as set forth within this Statute for Employers and limits such waiver to remedies as set forth within this Statute.

B. The Tribe clearly and expressly waives its sovereign immunity to Equitable Remedies as set forth in this Statute for officials, individual employees and/or managers and the Tribe clearly and expressly waives its sovereign immunity for Damages for officials, individual employees and/or managers who act beyond the scope of their duties and authority in which the actions include either acting with malice or with reckless indifference to the rights afforded under this Statute as set forth within this Statute and limits such waiver to remedies as set forth within this Statute.

C. The Tribe asserts no sovereign immunity for third-parties; and limits the remedies as set forth by this Statute.

(Source: WOS 2008-011, October 5, 2008, Section IV)

14.105 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY THE EMPLOYER

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of the Employer:

1 *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

b. An order to employ or reinstate the employee, with or without back pay or reasonable front pay if reinstatement is unfeasible;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may additionally award compensatory, punitive damages or fines as provided in this subparagraph.

a. A complainant may recover compensatory damages against an employer for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.

b. A complainant may recover punitive damages against an employer if the complainant demonstrates that the employer engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

3. The total sum of compensatory, punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-011, October 5, 2008, Section V)

14.106 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY AN INDIVIDUAL EMPLOYEE OR MANAGER

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of an Individual Employee or Manager:

1. *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may award punitive damages or fines as provided in this subparagraph.

a. A complainant may recover punitive damages against an individual employee and/or manager if the complainant demonstrates that the individual employee and/or manager engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

3. The total sum of punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages from each individual employee and/or manager.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable

accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-011, October 5, 2008, Section VI)

14.107 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY THIRD PARTIES

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of a third party:

1. *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may award punitive damages or fines as provided in this subparagraph.

a. A complainant may recover punitive damages against an individual employee and/or manager if the complainant demonstrates that the individual employee and/or manager engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual

protected by this Statute.

3. The total sum of punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages from each individual third party.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-011, October 5, 2008, Section VII)

14.108 EMPLOYMENT DISCRIMINATION AND SEXUAL HARASSMENT

A. Recognizing the traditional Odawak value of equality, mutual respect and respect for differences, persons employed or seeking employment with the Tribe enjoy the right not to be unlawfully discriminated against based on religion, race, color, national origin, ethnicity, age, sex, height, weight, familial status, marital status, disability, perceived disability, sexual orientation, arrest or detention records, or other disposition in which a conviction did not result; in the areas of hiring and firing; compensation, assignment, or classification of employees; transfer, promotion, layoff, or recall; job advertisements; recruitment; testing; use of company facilities; training and apprenticeship programs; fringe benefits; pay, retirement plans, and disability leave; or other terms and conditions of employment.

B. Employees enjoy the right to be free from harassment on the basis of religion, race, color, national origin, ethnicity, age, sex, height, weight, familial status, marital status, disability,

perceived disability or sexual orientation;

C. Employees have the right to have decision made by Tribe to be free from stereotypes or assumptions about their abilities, traits, or performance of individuals based on certain religion, race, color, national origin, ethnicity, age, sex, height, weight, familial status, marital status, disability, perceived disability or sexual orientation;

D. An employee shall not be denied employment opportunities because of marriage to, or association or participation with, an individual of a particular religion, race, color, national origin, ethnicity, age, sex, disability, perceived disability or sexual orientation.

E. All employees have the right to be paid the same as other employees who perform substantially equal work in the same establishment with same skill, effort, responsibility and working conditions other than differentials that are permitted based on seniority, merit, quantity or quality of production, or any other factor other than sex or gender.

F. Employees enjoy the right to be free from unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. In particular if the offense is directly linked to an individual's terms of employment or forms the basis for employment decisions affecting the individual.

G. Employees enjoy the right to work free from interference of sexual propositions, pornography, vulgar language, sexual touching, degrading comments, or embarrassing questions or jokes.

(Source: WOS 2008-011, October 5, 2008, Section VIII)

14.109 INDIAN PREFERENCE IN HIRING, PROMOTION AND TRAINING

In the exercise of its inherent self-governing authority over its Citizens and territory, the Tribe ensures that Citizens of the Tribe and other Federally Recognized Tribal Citizens be given priorities for employment and retention of employment over non-Citizens of the Tribe. The provision of such employment preferences for Tribal Citizens promotes the public health and welfare of the Tribe by allowing the benefits of economic development within the territorial

jurisdiction of the Tribe to be realized by Citizens of the Tribe and other Federally Recognized Tribal Citizens. Employees shall have all rights provided by *Indian Preference in Tribal Employment Statute,* WOS 2002-04, and any successor law and the *Indian Preference in Tribal Employment Statute* shall supersede any rights provided by this Statute.

(Source: WOS 2008-011, October 5, 2008, Section IX)

14.110 LAWFUL EMPLOYMENT DISCRIMINATION

A. The use of Indian Preference as defined in this Statute shall not be construed to prohibit any action to provide employment preferences to Tribal Citizens or members of the other Federally Recognized Indian Tribes as permitted under federal law 42 U.S.C. 2000e-2(i).

B. Limitations on the employment of minors shall not be construed as discrimination if complying with Tribal and/or federal laws relating to employment of minors.

C. Limitations on assignments of individuals with an infectious or communicable disease is governed by the following:

1. In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is published by the United States Secretary of Health and Human Services and which can not be eliminated by reasonable accommodation.

D. Limitation on benefits for marriages that involve same-sex marriages.

(Source: WOS 2008-011, October 5, 2008, Section X)

14.111 DOMESTIC LEAVE AND MILITARY LEAVE

A. An eligible employee enjoys the right to take unpaid leave for the following:

1. care for employee's child after birth or placement for adoption or foster care;

2. to care for the employee's spouse, son or daughter or parent who has serious health condition;

3. for a serious health condition that makes the employee unable to perform the occupational functions of the employee's job;

4. compulsory military duty or a spouse or parent of a person called to military service lasting longer than thirty (30) days.

B. Upon return from domestic leave or compulsory military duty or any period of active duty in the National Guard or other military reserve units, an employee may not be discharged or subjected to adverse employment action for taking such leave.

C. Upon return from domestic leave or compulsory military duty or any period of active duty in the National Guard or other military reserve units, an employee shall be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

D. Eligibility criteria, procedures and guidelines in the Employee Handbook shall apply but shall not diminish the rights provided by this Statute subject to reasonable limitations and certification as set out in the Employee Handbook.

(Source: WOS 2008-011, October 5, 2008, Section XI)

14.112 EMPLOYMENT LEAVE FOR VICTIMS OF VIOLENCE

A. An employee who is a victim of domestic abuse, sexual assault, stalking, or other domestic violence-related crimes may take up to thirty (30) days of unpaid leave to seek a restraining order, obtain medical care or counseling, locate safe housing or find or make secure housing arrangements, or seek legal assistance and prepare for or attend court-related proceedings.

B. Upon return from leave, an employee may not be discharged or subjected to adverse employment action for taking such leave.

C. Upon return from leave, an employee shall be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

D. Eligibility criteria, procedures and guidelines in the Employee Handbook shall apply but shall not diminish the rights provided by this Statute subject to reasonable limitations and certification as set out in the Employee Handbook.

(Source: WOS 2008-011, October 5, 2008, Section XII)

14.113 EMPLOYEE WAGES AND HOURS

A. Employees shall be paid an hourly wage of not less than the minimum wage established by federal law pursuant to federal Fair Labor Standards Act of 1938, Title 29 of the United States Code, sections 201 *et seq.*, as amended and regulations concerning the FLSA by the U.S. Department of Labor (FLSA). Such wage may be changed by vote of the Tribal Council. Provided that, tipped employees shall utilize the aggregate of hourly rate and tips to identify wage rate.

B. Employee shall not be employed for a workweek longer than forty (40) hours unless such employee receives compensation for the employee's employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which the employee is employed.

C. This provision does not apply to Exempt employees that are employed in a bona fide executive, administrative, or professional capacity, or any other exemption category outlined in the FLSA.

D. For the purposes of interpreting and enforcing this section only, the Tribal Court may look to the FLSA and regulations thereunder as well as relevant case law for guidance, provided however that nothing in this Statute shall be construed as an adoption by the Tribe of the FLSA, nor a waiver of sovereign immunity from suit for any claims or process under the FLSA.

(Source: WOS 2008-011, October 5, 2008, Section XIII)

14.114 WORKERS COMPENSATION

A. "Workers Compensation" is insurance, provided at no cost to an employee, which can provide medical, lost-wages for a job-related injury or illness.

B. "Work-related injury or illness" means an injury or illness sustained as a direct result of employment.

C. Persons employed by Tribe shall be provided a comprehensive Worker's Compensation insurance program at no cost.

D. Eligibility criteria, procedures and guidelines in the Employee Handbook shall apply.

(Source: WOS 2008-011, October 5, 2008, Section XIV)

14. 115 FREEDOM TO WORK WITHOUT JOINING A UNION AND RIGHT TO WORK

A. *"Labor organization, labor association, or labor union"* means any organization of employees organized for the purpose of bargaining over hours of employment, rates of pay, working conditions, grievances, or other terms or conditions of employment.

B. Persons employed by Tribe enjoy the right to work and are free from joining a union as a condition of employment or continuation of employment nor shall any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor organization.

C. Additionally, persons employed by the Tribe as a matter of rights, are free from any of the following:

1. become or remain a member of a labor organization;

2. pay dues, fees, assessments or other charges of any kind or amount to a labor

organization;

3. pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization without the signed written authorization of such deductions;

4. be recommended, approved, referred or cleared through a labor organization.

5. restraints and coercion by any labor organization.

6. any deduction from wages, earnings or compensation without written consent.

(Source: WOS 2008-011, October 5, 2008, Section XV)

14.116 ENFORCEMENT

The Tribal Court has exclusive civil jurisdiction over any actions brought under this Statute and may order such remedies as the Tribal Court deems appropriate. Any Employer shall have the right to suspend or terminate the employment of any employee found to be in violation of this Statute.

(Source: WOS 2008-011, October 5, 2008, Section XVI)

14.117 EXHAUSTION OF REMEDIES

A. An employee must pursue any administrative claim, if available, with diligence and in good faith.

B. An employee may not cut short the administrative process prior to its final disposition, for upon abandonment a complainant fails to exhaust administrative relief and may not thereafter seek redress from the courts.

C. "Procedural due process rights" means the right to adequate notice, a meaningful opportunity to be heard, and the right to representation at the employee's option and expense.

(Source: WOS 2008-011, October 5, 2008, Section XVII)

14.118 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-011, October 5, 2008, Section XVIII)

14.119 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2008-011, October 5, 2008, Section XIX)

Chapter 2. Management and Labor Relations

14.201 PURPOSE AND TITLE

The Little Traverse Bay Bands of Odawa Indians (the "Tribe") exercises powers of self-government over its Citizens and territory. The Tribe has inherent authority to govern labor relations within its jurisdiction, and this includes regulating the terms and conditions under which collective bargaining may or may not occur within its tribal government and commercial enterprises. The Tribe's inherent authority further includes the right to protect the health, welfare, and political integrity of the Tribe from being harmed or threatened by the activities

within the Tribe's territory. The purpose of this Statute is to protect essential attributes of tribal self-government and the health and welfare of the Citizens of the Tribe if labor organizations seek to conduct operations within the jurisdiction of the Tribe.

(Source: WOS 2008-013, October 5, 2008, Section I)

14.202 DEFINITIONS

A. "*Commercial Enterprises"* means the Odawa Casino Resort and ancillary enterprises and activities and other tribally owned enterprises or businesses.

B. *"Employee, Individual Contributor, or Team Member"* means an individual employed Little Traverse Bay Bands of Odawa Indians including Tribal Government Administration, commercial entities including the Odawa Casino Resort and ancillary enterprises and activities beginning on the first day of work and after the employment process and issuance of a temporary gaming license. The first ninety (90) days and up to a maximum of one-hundred and eighty (180) days of employment shall be considered an "Introductory Period." Independent contractors are excluded.

C. *"Employer"* means all departments and agencies of the Tribal Government Administration and commercial entities of the Tribe, including the Odawa Casino Resort and ancillary enterprises and activities.

D. "*Gaming Regulatory Commission"* means the Little Traverse Bay Bands of Odawa Indians Gaming Regulatory Commission established pursuant to Waganakising Odawak Statute 2005-06, May 15, 2005 or as amended.

E. *"Indian Gaming Regulatory Act"* means 25 U.S.C. §§ 2701-2721.

F. *"Labor organization, labor association, or labor union"* means any organization of employees organized for the purpose of bargaining over hours of employment, rates of pay, working conditions, grievances, or other terms or conditions of employment.

G. *"Lock Out"* means any action by the Tribe that prevents its employees from going to work for the purpose of coercing employees to accept terms or conditions sought by the Tribe in a negotiation with a labor organization representing the employees.

H. *"Malice"* means the intent, without just cause or reason, to commit a wrongful act that will result in harm to another.

I. *"Management"* means any individual employed by the Tribal Government Administration, commercial entities, including the Odawa Casino Resort and ancillary enterprises and activities who has the authority, acting in the interest of LTBB, to cause another employee to be hired, transferred, suspended, laid off, recalled, promoted, discharged, assigned, rewarded or disciplined, either by taking such action or by recommending it to a superior; or who has the authority and responsibility to direct other employees. The exercise of this authority is not of a merely routine or clerical nature, but requires the exercise of independent judgment.

J. "*Odawa Casino Resort"* means the gaming enterprise, including related hotel and restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

K. *"Reckless indifference"* means conscious or reckless disregard of the consequences of one's acts or omissions.

L. "*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians"* means *"areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621."* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

M. *"Tribal Court"* means the Tribal Court of LTBB that has jurisdiction to hear charges of violations of rights afforded by this Statute including violations by third-parties.

N. *"Tribal Government Administration"* the operations and employees of the Tribal Government Administration that provides for inherent self-governing authority as a federally

recognized Indian tribe through its governmental activities expressly recognized or supported by the United States Congress, including, but not limited to **(1)** the provision of health, housing, education, and other governmental services and programs to its Citizens; **(2)** the exercise and operation of its administrative, regulatory, and police power authorities within its territorial jurisdiction.

O. *"Tribe"* or *"LTBB"* means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-013, October 5, 2008, Section II)

14.203 FAIR RIGHT TO WORK

A. With respect to employment or the terms or conditions of employment within any Tribal Government or Tribal commercial enterprise including the Odawa Casino Resort and ancillary enterprises and activities:

1. The right to work must be protected and maintained free from undue restraints and coercion. The right of persons to work shall not be denied or abridged by any Employer or by any labor organization on account of membership or non-membership in any labor union, labor organization, or association.

2. No person shall be required to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment.

3. No person, as a condition of employment or continuation of employment, shall be required to pay any dues, fees, or other charges of any kind to any labor union or labor organization or to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessment or other charges regularly required of members of a labor organization.

4. No person shall be required, as a condition of employment or continuation of employment to be recommended, approved, referred, or cleared by or through a labor organization.

5. It shall be unlawful to deduct from the wages, earnings or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the Employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the Employer.

6. No person shall be required by any Employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

7. It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or Employer, or officer or agent thereof, by any threatened or actual intimidation of an employee or prospective employee or his parents, spouse, children, grandchildren, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to his property, to compel or attempt to compel such employee or prospective employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or to otherwise forfeit his rights as guaranteed by provisions of this Statute. It shall be unlawful to cause or attempt to cause such employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employee.

8. Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and an Employer which violates the rights of employees as guaranteed by the provisions of this Statute is hereby declared to be against public policy and is null and void and of no legal effect.

(Source: WOS 2008-013, October 5, 2008, Section III)

14.204 LIMITED WAIVER OF SOVEREIGN IMMUNITY

A. The Tribe clearly and expressly waives its sovereign immunity to the Equitable Remedies as set forth in this Statute and clearly and expressly waives its sovereign immunity to

Damages as set forth within this Statute for Employers and limits such waiver to remedies as set forth within this Statute.

B. The Tribe clearly and expressly waives its sovereign immunity to Equitable Remedies as set forth in this Statute for officials, individual employees and/or managers and the Tribe clearly and expressly waives its sovereign immunity for Damages for officials, individual employees and/or managers who act beyond the scope of their duties and authority in which the actions include either acting with malice or with reckless indifference to the rights afforded under this Statute as set forth within this Statute and limits such waiver to remedies as set forth within this Statute.

C. The Tribe asserts no sovereign immunity for third-parties; and limits the remedies as set forth by this Statute.

(Source: WOS 2008-013, October 5, 2008, Section IV)

14.205 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY THE EMPLOYER

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of the Employer:

1. *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

b. An order to employ or reinstate the employee, with or without back pay or reasonable front pay if reinstatement is unfeasible;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may additionally award compensatory, punitive damages or fines as provided in this subparagraph.

a. A complainant may recover compensatory damages against an employer for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.

b. A complainant may recover punitive damages against an employer if the complainant demonstrates that the employer engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

3. The total sum of compensatory, punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-013, October 5, 2008, Section V)

14.206 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY AN INDIVIDUAL EMPLOYEE OR MANAGER

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of an Individual Employee or Manager:

1. *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may award punitive damages or fines as provided in this subparagraph.

a. A complainant may recover punitive damages against an individual employee and/or manager if the complainant demonstrates that the individual employee and/or manager engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

3. The total sum of punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages from each individual employee and/or manager.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-013, October 5, 2008, Section VI)

14.207 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS BY THIRD PARTIES

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations of a third party:

1. *Equitable Remedies.* If the Tribal Court finds that employment rights violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

2. *Damages.* If the Tribal Court finds a blatant employment rights violation, the Tribal Court may award punitive damages or fines as provided in this subparagraph.

a. A complainant may recover punitive damages against a third party if the complainant demonstrates that the third party engaged in an unlawful employment rights violation with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

(Section 2. amended by WOS 2008-013, December 7, 2008)

b. The total sum of punitive damages and/or fines may not exceed $50,000,

excluding the amount for actual loss of wages from each individual third party.

c. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the third party demonstrates good faith efforts, in consultation with the person with the disability who has informed the third party that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

3. The total sum of punitive damages and/or fines may not exceed $50,000, excluding the amount for actual loss of wages from each individual third party.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded when the employer demonstrates good faith efforts, in consultation with the person with the disability who has informed the employer that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

(Source: WOS 2008-013, October 5, 2008, Section VII)

14.208 STRIKES AND LOCKOUTS

A. Each employee offers a critical service to the operations of the Tribe and its Tribal Government Administration and commercial entities, including the Odawa Casino Resort, ancillary enterprises and activities. These critical services provide and generate revenue for support services for Tribal Citizens and the Tribe, and are critical to the public health, safety, and

welfare of the Tribe.

B. An employee shall not strike and the Tribe shall not institute a lockout. The Tribe does not violate this Statute if there is a total or partial cessation of the Tribal Government Administration, the Odawa Casino Resort and other ancillary enterprises operations in response to a strike held in violation of this Statute.

C. This Statute does not limit, impair, or affect the right of a employees to the expression or communication of a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of employment or their betterment as long as the expression or communication does not interfere with the full, faithful, and proper performance of the duties of employment.

D. An employee shall be considered on strike, if the employee who, without the lawful approval of his or her supervisor, willfully absents himself or herself from their position, or abstains in whole or in part from the full, faithful and proper performance of his or her duties for the purpose of:

> **1.** including, influencing or coercing a change in employment conditions, compensation, rights, privileges or obligations of employment; or
>
> **2.** protesting or responding to an act alleged or determined to be an unfair labor practice committed by the employer,

(Section D amended by WOS 2008-013, December 7, 2008)

E. If an employer alleges that there is a strike by one (1) or more employees in violation of this Statute, the employer may file such violation with the Tribal Court of the full or partial days an employee was engaged in the alleged strike.

F. If an employee alleges that there is a lockout by the employer in violation of this Statute, the employee may file such violation with the Tribal Court of the full or partial days of the alleged lockout.

G. The Tribal Court shall conduct a hearing within sixty (60) days of the alleged violation

and shall issue its decision and order. If the Court finds that a violation has occurred the Court may fine each employee or the employer.

H. The Tribal Court shall transmit money received from fines imposed by this Statute to the General Fund of the Tribe.

(Source: WOS 2008-013, October 5, 2008, Section VIII)

14.209 LICENSING AND REGISTRATION OF LABOR ORGANIZATIONS

A. No labor organization shall engage in organizing employees including solicitation of union membership in any manner, without a license, issued by the Little Traverse Bay Bands of Odawa Indians Gaming Regulatory Commission, which shall provide as follows:

1. the right of such labor organization to be present and conduct business within the Tribe's territorial jurisdiction is a privilege, subject to the consent and regulatory authority of the Tribe;

2. the consent of the Tribe to allow such labor organization to be present and conduct business within the territory jurisdiction of the Tribe is conditioned upon such labor organization's agreement to be subject to the laws of the Tribe and its regulatory authority, including this Statute;

3. in consideration of the Tribe's consent to such labor organization's conduct of business within the territorial jurisdiction of the Tribe, such labor organization agrees to

a) comply with all rules, regulations, and laws of the Tribe
b) submit to the jurisdiction of the Tribe, including its Tribal Court, and
c) pay an annual business license fee in the amount of fifty dollars, ($50.00.).

4. such labor organization agrees that a license issued by the Tribe for conducting business within the territorial jurisdiction of the Tribe may be revoked by the Tribe at any time, with or without hearing, for any failure to comply with the laws of the Tribe; and

5. such other requirement as the Gaming Regulatory Commission may require under its regulations.

B. Subject to the requirements of this Statute and the Administrative Procedures Statute (Waganakising Odawak Statute 2008-001, as may be amended or replaced) the Gaming Regulatory Commission is authorized to promulgate such regulations as it deems necessary to investigate and license any labor organization seeking to conduct business within the territorial jurisdiction of the Tribe.

(Section B. amended by WOS 2008-013, December 7, 2008)

C. Every labor organization engaged in organizing any including the solicitation of union membership in any manner, shall file a report with the Enjinaaknegeng within Twenty-one (21) days of initiating any such organizing effort. The report, which shall be filed by the president of the labor organization, shall contain the following information:

1. The name and address of the labor organization;

2. The names and addresses of the president, secretary, treasurer, and business agent of the labor organization;

3. The name and address of the national and/or international organization, if any, with which the labor organization is affiliated;

4. A copy of the current constitution, by-laws, or other written rules governing the organization;

5. All information regarding qualifications for or restrictions on membership; levying of assessments; participation in insurance or other benefit plans; authorization for disbursement of labor organization funds; audit of labor organization financial transactions; the calling of regular and special meetings; the selection of officers and stewards and any representatives to other bodies composed of labor organizations' representatives; a specific statement of the manner in which each current officer was

elected, appointed, or otherwise selected; discipline or removal of officers or agents for breaches of their trust and a specific statement regarding any past disciplinary action of removal of officers or agents for breach of their trust; impositions of fines, suspensions and expulsions of members including the grounds for such action and any provisions made for notice, hearing, judgment on the evidence, and appeal procedures, along with a detailed statement regarding any imposition of fines, suspensions and expulsions of members in the past calendar year; and

6. A copy of the Labor Organization's Annual Report, as reported on the United States Department of Labor's Form LM-2.

D. The president of any such labor organization described in subsection (a) shall file with the Office of General Counsel for the Tribe a notice of any changes to the information required above within 10 days after the changes are made and provide any additional information requested by the Tribe's Office of General Counsel.

E. Should a labor organization establish representation of any employees for any Employer, it shall provide the foregoing information on an annual basis, no later than the first Monday in January, which is not otherwise designated a tribal holiday.

F. It shall be a violation of this section for any labor organization, any person or employee acting on behalf of any labor organization to fail to register or to make any false statements on any reports required to be filed pursuant to this section.

(Source: WOS 2008-013, October 5, 2008, Section IX)

14.210 TRIBAL EMPLOYMENT PREFERENCES

A. In the exercise of its inherent self-governing authority over its Citizens and territory, the Tribe ensures that Citizens of the Tribe and other federally recognized tribes be given priorities for employment and retention of employment over non-Citizens of the Tribe. The provision of such employment preferences for Tribal Citizens promotes the public health and welfare of the Tribe by allowing the benefits of economic development within the territorial jurisdiction of the Tribe to be realized by Citizens of the Tribe. Employees shall have all rights provided by *Indian*

Preference in Tribal Employment Statute, WOS 2002-04, and any successor law and the *Indian Preference in Tribal Employment Statute* shall supersede any rights provided by such Statute.

B. Prohibition of Collective Bargaining Affecting Tribal Employment Preferences.
Any and all policies, laws, or regulations of the Tribe or any Employer providing employment preferences to Tribal Citizens and Citizens of other federally recognized Tribes, including preferences given for hiring, training, and retention in the context of reductions in force shall not be subject to bargaining with any labor organization.

(Source: WOS 2008-013, October 5, 2008, Section X)

14.211 ENFORCEMENT

A. Any employee or third-party who violates, or seeks to violate, the provisions of this Statute shall be subject to a civil action brought before the Tribal Court and may be subjected to such remedies as set forth in this Statute.

B. Any Employer shall have the right to suspend or terminate the employment of any employee found to be in violation of this Statute.

C. An employee or labor organization shall have the right to seek injunctive relief against the Tribe to enforce the prohibition against lockouts.

(Source: WOS 2008-013, October 5, 2008, Section XI)

14.212 EXHAUSTION OF REMEDIES

A. A claimant must pursue through the administrative process with diligence and in good faith.

B. Any claim not finalized by the administrative process, shall be considered abandonment of a claim and failure to exhaust administrative relief and may not thereafter seek redress from the courts.

(Source: WOS 2008-013, October 5, 2008, Section XII)

14.213 JUDICIAL REVIEW

Little Traverse Bay Bands of Odawa Indians Tribal Court shall have exclusive jurisdictions of for violations brought under this Statute.

(Source: WOS 2008-013, October 5, 2008, Section XIII)

14.214 SAVING 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, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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.

(Source: WOS 2008-013, October 5, 2008, Section XIV)

14.215 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2008-013, October 5, 2008, Section XV)

Chapter 3. Indian Preference in Tribal Employment

14.301 PURPOSE

This Statute rescinds and replaces Waganakising Odawak Statute 1998015. This Tribal Employment Statute is hereby enacted to mandate the preferential employment, promotion and

training of tribal members and other persons by the Tribe and its business enterprises, as permitted and promoted under federal law based on the unique political relationship between Indian tribes and the United States.

14.302 DEFINITIONS

A. "**Tribal Business Enterprise**" means any business owned, operated or licensed by the Little Traverse Bay Bands of Odawa Indians.

B. "**Employment Preference**" means a preference given to a job applicant or employee in hiring, promotion and training decisions when choosing qualified applicants or employees.

C. "**Qualified Applicant**" means a person who meets minimum qualifications, experience, background, abilities or education.

(Source: WOS 2002-04, July 7, 2002, Section II)

14.303 EMPLOYMENT PRACTICES

A. **Indian Preference**. The Tribe and Tribal Business Enterprises shall grant an Employment Preference for hiring, promotion and training to the following persons in the following order:

1. Members of the Little Traverse Bay Bands of Odawa Indians,

2. Other federally recognized members of North American Indians Tribes.

B. **General**. Except for the Indian preference stated in Section III (A) [WOTC 6.703], employment, promotion and training opportunities within the Tribe and Tribal Business Enterprises will be offered to qualified individuals without regard to race, religion, color, ancestry, gender, age or national origin.

C. **Contractors and Subcontractors**. The Tribe and its business enterprises may require adherence to this Statute when negotiating contracts.

(Source: WOS 2002-04, July 7, 2002, Section III)

14.304 EFFECTIVE DATE

Upon Enactment. [July 7, 2002]

(Source: WOS 2002-04, July 7,2002, Section IV)

Chapter 4. Whistle Blower Protection

14.401 PURPOSE

The purpose of this Statute is to protect the interests of Tribal employees and the Tribe by prohibiting retaliatory action against employees who report violations of the law.

(Source: WOS 2000-15, November 5, 2000, Section I)

14.402 DEFINITIONS

A. "**Employee**" means any person employed on a full or part time, salaried or hourly basis, by the Tribal Governmental administration of the Little Traverse Bay Bands of Odawa Indians or by any Tribally owned economic enterprise.

(Source: WOS 2000-15, November 5, 2000, Section II)

14.403 RETALIATION PROHIBITED

A. No employee shall be terminated, demoted, penalized or disciplined in any way as a direct result of the employee's reporting of activity, over which the employee has actual knowledge and which the employee reasonably believes to be in violation of any applicable law, to a supervisor, tribal law enforcement official, or the Tribal Council.

B. Cause of Action. Any employee who is subject to retaliatory action based on good faith

and reasonable reporting as described in subsection (A) shall have standing to bring a cause of action in Tribal Court against his/her individual supervisor or other individual alleged to have acted in violation of subsection (A). If the Court finds the employee to have acted in a good faith and reasonable fashion in reporting possibly illegal activity, and to have been subject to negative action as a result of such reporting, the Court shall order reinstatement of the employee's position and back pay if appropriate. The Court may also order a party that it finds to have taken such retaliatory action to pay the employee's Court costs and attorney's fees.

C. False Reporting. An employee who knowingly or recklessly makes a false report to a supervisor, law enforcement official or to the Tribal Council may be subject to disciplinary action as appropriate under the applicable personnel policies.

(Source: WOS 2000-15, November 5, 2000, Section III)

TITLE XV. RESOLUTIONS 2008/2009

Chapter One. Funding Requests

15.101 REQUEST FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS LAW ENFORCEMENT DEPARTMENT, COPS FY 2008 TRIBAL RESOURCES GRANT PROGRAM

A. **THEREFORE, BE IT RESOLVED** that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of Justice, Office of Community Oriented Policing Services, Tribal Resources Grant Program.

B. **FURTHER RESOLVED,** that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION # 060808-02)

15.102 U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, FUNDING FOR TRIBES UNDER TITLE IV-B OF THE SOCIAL SECURITY ACT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2008 TITLE IV-B CHILD WELFARE SERVICES ALLOTMENT

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for the fiscal year 2009 LTBB allotment of funds from the U.S. Department of Health and Human Services, Administration for Children and Families for Title IV-B funding to provide child welfare services for the Little Traverse Bay Bands of Odawa Indians.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under this funding.

(Source: TRIBAL RESOLUTION # 060808-03)

15.103 REQUEST FOR FUNDING FROM U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION FOR CHILDREN AND FAMILIES, ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS CHILD CARE AND DEVELOPMENT FUND PROGRAM

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the biennial plan and grant application to the U.S. Department of Health and Human Services, Administration on Children, Youth and Families for the period of October 1, 2008 to September 30, 2010 from the Child Care and Development Fund.

B. FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman

William I. Denemy, Tribal Administrator Albert Colby Jr. or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION # 060808-05)

15.104 REQUEST FOR FUNDING FROM THE BUREAU OF JUSTICE ASSISTANCE, OFFICE OF JUSTICE PROGRAMS, UNITED STATES DEPARTMENT OF JUSTICE EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM, CATEGORY III: ENHANCING LOCAL COURTS, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2008 CRIMINAL JUSTICE SYSTEM COLLABORATION ENHANCEMENT PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the Bureau of Justice Assistance for a 12-month LTBB FY 2008 Criminal Justice System Collaboration Enhancement Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #060808-04)

15.105 U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OFFICE OF NATIVE AMERICAN PROGRAMS, NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT (NAHASDA), LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, INDIAN HOUSING BLOCK GRANT PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians supports the submission of the LTBB Annual Housing Plan to the U.S. Department of Housing and Urban Development for funding according to and in compliance with the requirements under NAHASDA on an annual basis for each year that funding is

available.

B. BE IT FURTHER RESOLVED that the Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds allocated for LTBB's participation in the Program.

(Source: TRIBAL RESOLUTION # 060808-06)

15.106 REQUEST FOR FUNDING FROM: U. S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT PROGRAM, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS HAZARDOUS MATERIALS TRAINING GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this application for funding from the U.S Department of Transportation, Pipeline and Hazardous Materials Safety Administration, for an LTBB Hazardous Materials Training grant.

B. BE IT FURTHER RESOLVED that the Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds allocated for LTBB's participation in the Program.

(Source: TRIBAL RESOLUTION # 060808-07)

15.107 FUNDING RENEWAL FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS 2009 ANNUAL FUNDING AGREEMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes the renewal of contract No. 239-07-0018 with the Indian

Health Service of the Annual Funding Agreement for the period January 1, 2009 – December 31, 2009.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #070608-01)

15.108 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. APPLICATION FOR FUNDING: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY SERVICES LOW INCOME ENERGY ASSISTANCE PROGRAM

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the Inter-Tribal Council of Michigan, Inc. to act on its behalf in contracting with the U.S. Department of Health and Human Services, Office of Community Services for the purpose of administering a Low Income Energy Assistance Program for fiscal year 2009.

BE IT FURTHER RESOLVED that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION #070608-02)

15.109 FUNDING FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA), FOOD AND NUTRITION SERVICES, FY 2009 FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay

Bands of Odawa Indians authorizes and supports the Plan of Operation and budget request to the United States Department of Agriculture, Food and Nutrition Service for fiscal year 2009 Little Traverse Bay Bands of Odawa Indians Food Distribution Program on Indian Reservations program.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under this funding.

(Source: TRIBAL RESOLUTION # 070608-03)

15.110 FUNDING FROM MICHIGAN INTER-TRIBAL COUNCIL, INC., MICHIGAN DEPARTMENT OF COMMUNITY HEALTH ELDERLY SUPPLEMENTAL CONTRACT LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ELDERS' PROGRAM SUPPLEMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes the receipt of funds from the Inter-Tribal Council of Michigan, Inc, for supplemental Elders' program funding.

B. FURTHER RESOLVED, that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION # 070608-04)

15.112 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. COLLABORATIVE AGREEMENT WITH THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FOR U.S. ENVIRONMENTAL PROTECTION AGENCY ENVIRONMENTAL HEALTH

DURING PREGNANCY PROJECT

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians agrees to work collaboratively with Inter-Tribal Council of Michigan, Inc., to implement the Environmental Health During Pregnancy Project Environmental Protection Agency/EPA I.D. #CG-83373401 (CFDA # 66.609) within the Healthy Start Program.

B. BE IT FURTHER RESOLVED that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION # 070608-05)

15.113 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. APPLICATION FOR FUNDING: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY SERVICES COMMUNITY SERVICES BLOCK GRANT EMERGENCY ASSISTANCE PROGRAM

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the Inter-Tribal Council of Michigan, Inc. to apply for the Community Services Block Grant Fund from the Office of Community Services, United States Department of Health and Human Services for the fiscal year 2009.

B. BE IT FURTHER RESOLVED that the Little Traverse Bay Bands of Odawa Indians authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION # 070608-06)

15.114 APPROVAL TO SUBMIT: STATE OF MICHIGAN, DEPARTMENT OF HUMAN SERVICES, BUREAU OF JUVENILE JUSTICE COMMUNITY PROGRAMMING AND SUPPORT SERVICES, CHILD CARE FUND UNIT: LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS CHILD CARE FUND ANNUAL TRIBAL PLAN

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the submission of an LTBB Annual Plan to the State of Michigan, Michigan Department of Human Services, Community Support Division Office for approval to participate in the Child Care Fund program.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #111608-01)

15.115 REQUEST FOR FUNDING FROM THE USDA RURAL DEVELOPMENT WATER AND ENVIRONMENTAL PROGRAMS LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 SOLID WASTE MANAGEMENT GRANT PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the USDA for a FY 2009 Solid Waste Management Grant Program.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #120708-01)

15.116 REQUEST FOR FUNDING FROM THE NATIONAL ENDOWMENT FOR THE HUMANITIES, AMERICA'S HISTORICAL AND CULTURAL ORGANIZATIONS PLANNING GRANTS LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the National Endowment of the Humanities, America's Historical and Cultural Organizations Planning Grants to develop a library-based cultural and historical project that utilizes emerging technologies to deepen understanding of significant LTBB historical events, places and people.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTON #120708-02)

15.117 CONTRACT RENEWAL WITH THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE - SANITATION PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS WELL & SEPTIC SYSTEMS CONTRACT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes negotiations and entering into a contract with the Indian Health Service to use the open-market bidding process for any Indian Health construction projects now or in the future until the tribe specifically directs Indian Health Service otherwise.

B. BE IT FURTHER RESOLVED that the Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds allocated for LTBB's participation in the Program, including contract modifications.

(Source: TRIBAL RESOLUTION #011109-01)

15.118 CHAMPIONS FOR HEALTHY KIDS

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes and supports the grant application to the General Mills Champions for Healthy Kids.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #011109-02)

15.119 REQUEST FOR FUNDING FROM THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS 2009 BASIC LIBRARY SERVICES GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Institute of Museum and Library Services for a 12-month LTBB Basic Library Services grant with education assessment option.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #012509-01)

15.120 REQUEST FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, FY2009 CIRCLE OF FLIGHT PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay

Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of the Interior, Bureau of Indian Affairs, for the Circle of Flight program to carry on the assessment, monitoring and management of species of cultural and traditional significance on the LTBB Reservation.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION #012509-02)

15.121 REQUEST FOR FUNDING FROM THE OFFICE OF JUSTICE PROGRAMS, UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 ADULT DRUG COURT IMPLEMENTATION GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Drug Court Discretionary Grant Program, for a 3-year Odawa Adult Healing to Wellness Program implementation grant.

B. BE IT FURTHER RESOLVED the Little Traverse Bay Bands of Odawa Indians in requesting this funding agrees to provide 25 percent of the total budget as match and this match will be satisfied with either cash or in-kind services or a combination of both.

(Source: TRIBAL RESOLUTION #012509-03)

15.122 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE TRIBAL MANAGEMENT GRANT PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL HEALTH MANAGEMENT PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Department of Health and Human Services, Indian Health Service, for an LTBB Tribal Health Management Project under funding Priority III.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION #012509-04)

15.123 REQUEST FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, FY2009 INVASIVE SPECIES PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of the Interior, Bureau of Indian Affairs, for the Invasive Species program to conduct a base line Invasive Species Inventory for the LTBB Reservation.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION #012509-05)

15.124 REQUEST FOR CONTINUATION FUNDING FROM: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 SPECIAL DIABETES PROGRAM FOR INDIANS

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for continued funding for the LTBB Special Diabetes Program.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under this non-competitive grant.

(Source: TRIBAL RESOLUTION #012509-06)

15.125 REQUEST FOR FUNDING FROM THE N4A (NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING) DIGITAL TV: KEEPING SENIORS CONNECTED CAMPAIGN "READY-TO-GO" AGENCIES LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ELDERS' PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the n4a (National Association of Area Agencies on Aging), for participation in the DIGITAL TV: KEEPING SENIORS CONNECTED CAMPAIGN Grants for the grant period of February 1, 2009 to March 31, 2009.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 020809-01)

15.126 REQUEST FOR FUNDING FROM THE BUREAU OF JUSTICE ASSISTANCE, OFFICE OF JUSTICE PROGRAMS, UNITED STATES DEPARTMENT OF JUSTICE FISCAL YEAR 2009 TRIBAL COURTS ASSISTANCE PROGRAM, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 TRIBAL COURT ASSISTANCE PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the Bureau of Justice Assistance for a 24-month LTBB Tribal Court Assistance Grant.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 020809-02)

15.127 REQUEST FOR FUNDING FROM FISKARS BRAND, INC. 2009 PROJECT ORANGE THUMB; LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ORANGE THUMB GARDEN PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Fiskars Brand, Inc. for a Little Traverse Bay Bands of Odawa Indians Project Orange Thumb.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 020809-03)

15.128 REQUEST FOR FUNDING FROM THE COCA-COLA COMPANY, NATIONAL RECYCLING COALITION BIN GRANT PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 COCA-COLA RECYCLING BIN GRANT PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Coca-Cola

Company National Recycling Coalition Bin Grant Program for a FY 2009 Coca-Cola Recycling Bin Grant.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 020809-04)

15.129 APPROVAL OF FY 2009 TRIBAL TRANSPORTATION IMPROVEMENT PROGRAM

A. THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council approves the updated priorities and projects as indicated in the Long-Range Transportation plan until the plan's expiration;

B. BE IT FURTHER RESOLVED, that the Tribe's Chairperson is authorized to sign the documentation necessary to facilitate the Tribal Transportation program including but not limited to memorandums of agreements with local governments.

(Source: TRIBAL RESOLUTION 022209-01)

15.130 REQUEST FOR FUNDING FROM U.S DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 TRIBAL JUVENILE ACCOUNTABILITY DISCRETIONARY GRANTS PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency

Prevention Fiscal Year 2009 Tribal Juvenile Accountability Discretionary Grants Program for a three year project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr. or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 022209-02)

15.131 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 GRANTS TO INDIAN TRIBAL GOVERNMENTS AND SEXUAL ASSAULT SERVICES PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the United States Department of Justice, Office on Violence Against Women to further develop the capacity of the Tribe to meet the needs of women and children who are victims of domestic violence.

B. BE IT FURTHER RESOLVED the Little Traverse Bay Bands of Odawa Indians seeks to work in collaboration with an experienced non-profit, nongovernmental victim services provider organization in the local community for their expertise in helping Indian victims of domestic violence, dating violence, sexual assault, or stalking.

C. FINALLY that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 022209-03)

15.132 REQUEST FOR FUNDING FROM THE U.S DEPARTMENT OF THE

INTERIOR, NATIONAL PARK SERVICE, NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT PROGRAM (NAGPRA) LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 REPATRIATION AND DOCUMENTATION GRANTS

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the National Park Service, National Native American Graves Protection and Repatriation Act Program for FY 2009 LTBB Documentation and Repatriation assistance grants.

B. FINALLY BE IT RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 022209-04)

15.133 REQUEST FOR FUNDING FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, ADMINISTRATION FOR NATIVE AMERICANS, NATIVE LANGUAGE PRESERVATION AND MAINTENANCE PROGRAM: LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS WAGANAKISING`NISHNAABEMOWIN IMPLEMENTATION PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans under grant Category III, "Native Language Project Implementation," for a 36-month Waganakising`Nishnaabemowin Implementation Project.

B. BE IT FURTHER RESOLVED that the Little Traverse Bay Bands of Odawa Indians agrees to provide the required matching share of at least 20 percent of the total approved cost of the project with non-federal matching dollars.

C. **FINALLY** that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 022209-05)

15.134 REQUEST FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS COPS FY 2009 TRIBAL RESOURCES GRANT PROGRAM

A. **THEREFORE, BE IT RESOLVED** that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of Justice, Office of Community Oriented Policing Services, Tribal Resources Grant Program.

B. **FURTHER RESOLVED,** that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 032209-01)

15.135 REQUEST FOR FUNDING FROM THE ENVIRONMENTAL PROTECTION AGENCY, REGION 5 LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS RESOURCE CONSERVATION CHALLENGE GRANT PROGRAM

A. **THEREFORE BE IT RESOLVED** that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the EPA Region 5 Resource Conservation Challenge Grant Program.

B. **BE IT FURTHER RESOLVED** that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and

administer funds under the grant.

(Source: TRIBAL RESOLUTION 032209-02)

15.136 REQUEST FOR FUNDING FROM THE US DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS' SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART) OFFICE; LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS SMART OFFICE FY 2009 SUPPORT FOR ADAM WALSH ACT IMPLEMENTATION GRANT PROGRAM

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this grant application to the Office of Justice Programs, U.S. Department of Justice for a Little Traverse Bay Bands of Odawa Indians SMART Office FY 2009 Support for Adam Walsh Act Implementation Grant Program.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 032209-03)

15.137 REQUEST FOR FUNDING FROM THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION CENTER FOR MENTAL HEALTH SERVICES LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL YOUTH SUICIDE PREVENTION GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the U.S. Substance Abuse and Mental Health Services Administration for the State/Tribal Youth Suicide Prevention Grant program.

B. FINALLY BE IT RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from

the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 032209-04)

15.138 REQUEST FOR FUNDING FROM THE BUREAU OF INDIAN AFFAIRS LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS INLAND LAKE BATHYMETRIC MAPPING PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Bureau of Indian Affairs for the Inland lake Bathymetric Mapping Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 032209-05)

15.139 REQUEST FOR FUNDING FROM THE ENVIRONMENTAL PROTECTION AGENCY LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FISCAL YEAR 2009 TRIBAL SOLID WASTE MANAGEMENT ASSISTANCE PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Environmental Protection Agency for a FY 2009 Tribal Solid Waste Management Assistance Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 040509-01)

15.140 REQUEST FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS COPS FY 2009 HIRING RECOVERY PROGRAM

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of Justice, Office of Community Oriented Policing Services, COPS Hiring Recovery Program.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 040509-02)

15.141 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION,FY 09 LOCAL YOUTH MENTORING INITIATIVE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS YOUTH MENTORING PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Department of Justice, Office of justice Programs, Office of Juvenile Justice and Delinquency Prevention for a 4-year Youth Mentoring Initiative.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from

the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 041909-01)

15.142 REQUEST FOR FUNDING FROM THE DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA), NATIONAL MARINE FISHERIES SERVICE, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, FISHERIES ENHANCEMENT PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U. S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service, for the Habitat Conservation program to implement a Fisheries Enhancement Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION 041909-02)

15.143 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS INDIAN HIGHWAY SAFETY PROGRAM, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS HIGHWAY SAFETY PROGRAM

A. THEREFORE BE IT RESOLVED the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this application to the United States Department of Interior, Bureau of Indian Affairs, Indian Highway Safety Program, through the National Highway Traffic Safety Administration for a Highway Safety Project.

BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman Bill Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 041909-03)

15.144 REQUEST FOR FUNDING FROM THE AREA AGENCY ON AGING OF NORTHWEST MICHIGAN (AAANM), MICHIGAN OFFICE OF SERVICES TO THE AGING (OSA) FY 2010-2012 MULTI-YEAR AGING SERVICES CONTRACT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ELDERS' PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Area Agency on Aging of Northwest Michigan, Office of Services to the Aging, for participation in the Fiscal Year 2010 Multi-Year Aging Services Contract for the grant period of October 1, 2009 to September 30, 2012.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 051709-02)

15.145 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF ENERGY NATIONAL ENERGY TECHNOLOGY LABORATORY RECOVERY ACT – ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 ENERGY EFFICIENCY AND CONSERVATION PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Department of Energy for a 36-month Recovery Act – Energy Efficiency and Conservation Block Grants

Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 051709-03)

15.146 REQUEST FOR FUNDING FROM U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, FUNDING FOR TRIBES UNDER TITLE IV-E OF THE FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTION ACT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 TITLE IV-E PLAN DEVELOPMENT GRANTS

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Department of Health and Human Services, Administration for Children and Families for FY 2009 Plan Development Grants to assist in the development of the Little Traverse Bay Bands of Odawa Indians Title IV-E Plan.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under this funding.

(Source: TRIBAL RESOLUTION 051709-04)

15.147 REQUEST FOR FUNDING FROM THE MICHIGAN DEPARTMENT OF COMMUNITY HEALTH, OFFICE OF DRUG CONTROL POLICY (ODCP), FY 2010 GOVERNOR'S DISCRETIONARY GRANT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2010 SAFE COMMUNITIES PROGRAM

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay

Bands of Odawa Indians authorizes and supports this request for funding from the Michigan Department of Community Health for a FY 2010 Governor's Discretionary Grant for a Little Traverse Bay Bands of Odawa Indians Safe Communities Project.

B. FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer the funds under the cooperative agreement.

(Source: TRIBAL RESOLUTION 051709-05)

15.148 REQUEST FOR FUNDING FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY, FY 09 REGION 5 WETLAND PROGRAM DEVELOPMENT GRANTS, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, WETLAND PROGRAM DEVELOPMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Environmental Protection Agency for a 12-36 month LTBB Wetland Development Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 051709-06)

15.149 FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT RURAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS INNOVATIVE HOUSING AND ECONOMIC DEVELOPMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians supports this request for funding from the U.S. Department of Housing

and Urban Development, Rural Housing and Economic Development Program for an LTBB Innovative Housing and Economic Development Project.

BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION 051709-07)

15.150 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 08 AND FY 09 METHAMPHETAMINE AND SUICIDE PREVENTION INITIATIVE (MSPI) LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS METHAMPHETAMINE AND SUICIDE PREVENTION GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the Indian Health Service for the FY 08 and FY 09 Methamphetamine and Suicide Prevention Initiative.

B. FINALLY BE IT RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 061409-01)

15.151 FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT NATIVE AMERICAN HOUSING BLOCK GRANT PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
NAHBG HOUSING PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians supports these requests for funding from the U.S. Department of Housing and Urban Development, Native American Housing Block Grant Program under both NAHASDA and under the American Recovery and Reinvestment Act of 2009 for two LTBB

NAHBG Housing Projects.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION 061409-02)

15.152 FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FY 2009 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS PUBLIC FACILITIES PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians supports this request for funding from the U.S. Department of Housing and Urban Development, Indian Community Development Block Grant Program for an LTBB Public Facilities Project.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under the grant.

(Source: TRIBAL RESOLUTION 061409-03)

15.153 REQUEST FOR FUNDING FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY, UNDER SECTION 103 OF THE CLEAN AIR ACT, FY 2009 REGION 5 TRIBAL ENERGY PROJECT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, TRIBAL ENERGY PROJECT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the U.S. Environmental Protection Agency for a 7-month LTBB Tribal Energy Project.

B. **BE IT FURTHER RESOLVED** that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 061409-04)

15.154 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE, OFFICE OF CLINICAL AND PREVENTIVE SERVICES, CHILDREN AND YOUTH PROJECTS, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL CHILDREN AND YOUTH PROJECT

A. **THEREFORE, BE IT RESOLVED** that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the United States Department of Health and Human Services, Indian Health Service, Office of Clinical and Preventive Services, for a Tribal Children and Youth Project under *Category II – Medium Project.*

B. **FURTHER RESOLVED** that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 061409-05)

15.155 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. FUNDING FROM: ADMINISTRATION FOR NATIVE AMERICANS (ANA) SOCIAL AND ECONOMIC DEVELOPMENT STRATEGIES - SEDS *IMPROVING ACCESS TO AND COORDINATION OF HEALTHY START SERVICES TO SAFE GUARD THE HEALTH AND WELL-BEING OF MICHIGAN'S NATIVE FAMILIES - HEALTHY START PROGRAM*

A. **THEREFORE BE IT RESOLVED** that the Little Traverse Bay Bands of Odawa

Indians agrees to work collaboratively with the Inter-Tribal Council of Michigan, Inc., to implement the Healthy Start Initiative project from the Administration for Native Americans – Social and Economic Development Strategies that will seek to continue and maintain services to reduce infant mortality and improve the quality of life for Native American women of child bearing age and to expand the program to add an evaluation component to improve services.

B. BE IT FURTHER RESOLVED that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 071209-01)

15.156 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS METHAMPHETAMINE AND SUICIDE PREVENTION INITIATIVE (MSPI) FOR TRIBAL YOUTH LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS METHAMPHETAMINE AND SUICIDE PREVENTION FOR TRIBAL YOUTH GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports the grant application to the Indian Health Service for the three-year Methamphetamine and Suicide Prevention Initiative for American Indian Youth grant program.

B. FINALLY BE IT RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 071209-02)

15.157 REQUEST FOR FUNDING FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2009 IHS HEALTH PROMOTION / DISEASE PREVENTION GRANT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding from the Indian Health Service FY 2009 Health Promotion / Disease Prevention Grant Program.

B. BE IT FURTHER RESOLVED that the Tribal Chairman Frank Ettawageshik, Vice-Chairman William I Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 071209-03)

15.158 U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, FUNDING FOR TRIBES UNDER TITLE IV-B OF THE SOCIAL SECURITY ACT, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FY 2010 TITLE IV-B CHILD WELFARE SERVICES ALLOTMENT

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for the fiscal year 2010 LTBB allotment of funds from the U.S. Department of Health and Human Services, Administration for Children and Families for Title IV-B funding to provide child welfare services for the Little Traverse Bay Bands of Odawa Indians.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under this funding.

(Source: TRIBAL RESOLUTION 071209-04)

15.159 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. APPLICATION FOR FUNDING: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY SERVICES LOW INCOME ENERGY ASSISTANCE PROGRAM

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the Inter-Tribal Council of Michigan, Inc. to act on its behalf in contracting with the U.S. Department of Health and Human Services, Office of Community Services for the purpose of administering a Low Income Energy Assistance Program for fiscal year 2010.

B. BE IT FURTHER RESOLVED that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 071209-05)

15.160 FUNDING FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, BEMIDJI AREA INDIAN HEALTH SERVICE, ARRA STIMULUS FUNDS FOR FISCAL YEAR 2009 TRIBAL MEDICAL EQUIPMENT FUNDS

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes acceptance of these funds from the U. S. Department of Health and Human Services, Bemidji Area Indian Health Service ARRA Stimulus Funds, of Tribal Medical Equipment Funds for the LTBB Health Program.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under this award.

(Source: TRIBAL RESOLUTION 071209-06)

15.161 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. APPLICATION FOR FUNDING: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY SERVICES COMMUNITY SERVICES BLOCK GRANT EMERGENCY ASSISTANCE PROGRAM

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the Inter-Tribal Council of Michigan, Inc. to apply for the Community Services Block Grant Fund from the Office of Community Services, United States Department of Health and Human Services for the fiscal year 2010.

B. BE IT FURTHER RESOLVED that the Little Traverse Bay Bands of Odawa Indians authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 071209-07)

15.162 DEPARTMENT OF HEALTH AND HUMAN SERVICES, INDIAN HEALTH SERVICE, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS IN COLLABORATION WITH THE INTER-TRIBAL COUNCIL OF MICHIGAN, INC. HEALTH PROMOTION AND DISEASE PREVENTION GRANT PROGRAM

A. THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians hereby authorizes the Inter-Tribal Council of Michigan, Inc. to apply on its behalf in contracting with the Indian Health Service Health Promotion and Disease Prevention Program for the purpose of administering community based activities to reduce chronic disease for fiscal years 2009, 2010 and 2011.

B. FINALLY BE IT RESOLVED, that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial

award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 072609-01)

15.163 FUNDING FROM THE USDA-CSREES, NORTH CENTRAL REGION (NCR) SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION (SARE) LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS SUSTAINABLE AGRICULTURE GRANT PROGRAM

A. THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council supports the application for funding from the NCR-SARE Sustainable Agriculture Grant Project and agrees to work collaboratively with the Tribal Consortium and the Michigan Land Use Institute to implement the sustainable agriculture project.

B. BE IT FURTHER RESOLVED that LTBB authorizes the Executive Director of the Michigan Land Use Institute or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the consortium, and also authorizes Tribal Chairman Frank Ettawageshik, Tribal Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 080909-04)

15.164 REQUEST FOR FUNDING FROM THE UNITED STATES FISH AND WILDLIFE SERVICE, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS NATURAL RESOURCES DEPARTMENT 2010 TRIBAL WILDLIFE GRANT

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this grant application to the U.S. Fish and Wildlife Service for a Little Traverse Bay Bands of Odawa Indians 2010 Tribal Wildlife Grant.

B. FURTHER RESOLVED, that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 080909-05)

15.165 FUNDING RENEWAL FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN HEALTH SERVICE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS 2010 ANNUAL FUNDING AGREEMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes the renewal of contract No. 239-09-0009 with the Indian Health Service of the Annual Funding Agreement for the period beginning January 1, 2010.

B. BE IT FURTHER RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians hereby provides notice to the Indian Health Service of our intent to negotiate and contract with the Bemidji Area Office for the administrative functions of the Department of Health and Human Services that support the delivery of services to Indians, including the administrative activities at the Area and Headquarters levels, that are supportive of, but not included as part of, the service delivery programs already contracted under the Indian Health Services Contract No. 239-09-0009;

C. BE IT FURTHER RESOLVED The authorities granted herein shall be effective until such time as the Tribal Governing Body takes further action by resolution;

D. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice-Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to apply for, receive, and administer funds under the grant.

(Source: TRIBAL RESOLUTION 080909-06)

15.166 INTER-TRIBAL COUNCIL OF MICHIGAN, INC. FUNDING FROM: U.S.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS REACH US PROGRAM

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes and supports this request for funding for the LTBB REACH US Program.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to execute any documents necessary to receive and administer funds under this non-competitive grant.

(Source: TRIBAL RESOLUTION 080909-07)

Chapter Two. Budgetary Matters

15.201 SUPPLEMENTAL FUNDING FOR ELDERS PROGRAM FOR PURCHASE OF A SHUTTLE VEHICLE NOT TO EXCEED $55,000 TO COME FROM PRIOR PERIOD FUNDS

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes supplemental funding to the Elders program budget 2107-2-7005-00, for the purposes of purchasing a new shuttle not to exceed $55,000 to come from prior period funds.

(Source: TRIBAL RESOLUTION 062208-01)

15.202 FUNDING FOR HOUSING DEPARTMENT TO CONSTRUCT A SINGLE FAMILY HOME IN PELLSTON IN COOPERATION WITH THE PELLSTON SCHOOL DISTRICT NOT TO EXCEED THE AMOUNT OF $90,000.00 TO COME FROM PRIOR PERIOD FUNDS

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians

Tribal Council authorizes funding for the Housing Department budget 1715-4-00 for the construction of a single-family home in the Village of Pellston in cooperation with the Pellston School District not to exceed the amount of $90,000.00 to come from prior period funds.

(Source: TRIBAL RESOLUTION 062208-02)

15.203 AUTHORIZING AN ADDITIONAL APPROPRIATION OF $7,000 TO THE 2008 ODAWA HOMECOMING JIINGTAMOK / POW-WOW COMMITTEE TO COME FROM PRIOR PERIOD FUNDS

A. THEREFORE, BE IT RESOLVED Tribal Council authorizes an appropriation of $7,000 to come from Prior Period funds to the 2008 Odawa Homecoming Jiingtamok / Pow-Wow line item 2101-2-00.

B. FURTHER RESOLVED that any revenues raised and all surplus funds of the Jiingtamok / Pow Wow Committee in 2008 shall be carried over to Fiscal Year 2009 for the Odawa Homecoming Jiingtamok Budget;

C. FINALLY RESOLVED that Tribal Council recognizes Winnay Wemigwase and Annette VanDeCar as the 2008 co-chairpersons of the 2008 Odawa Homecoming Jiingtamok as check requestors and the Tribal Administrator as the check requestor's approval.

(Source: TRIBAL RESOLUTION 062208-03)

15.204 ACCEPTANCE OF RESIDUAL INTEREST DISTRIBUTION UNDER PUBLIC LAW 105-143

THEREFORE BE IT RESOLVED that Little Traverse Bay Bands of Odawa Indians agrees with the proposed distribution of judgment fund monies as set out in the letter dated May 18, 2009 from Gerald F. Parish to LTBB Chairman Frank Ettawageshik.

(Source: TRIBAL RESOLUTION 062809-01)

15.205 FUNDING FROM MICHIGAN INTER-TRIBAL COUNCIL, INC., MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH ELDERLY SUPPLEMENTAL CONTRACT LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ELDERS' PROGRAM SUPPLEMENT

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes the receipt of funds from the Inter-Tribal Council of Michigan, Inc, for supplemental Elders' program funding.

B. FURTHER RESOLVED, that LTBB authorizes the Executive Director of the Inter-Tribal Council of Michigan or his/her designee to negotiate and implement the financial award on behalf of the member Tribes of the Inter-Tribal Council of Michigan, and also authorizes Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman to execute any documents needed for LTBB's participation in the program.

(Source: TRIBAL RESOLUTION 070609-04)

15.206 REPEALED: TRIBAL GOVERNMENT BUDGET REVISION FISCAL YEAR 2009

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council, through its Constitutional and Statutory duties, authorizes the Tribal Chairperson to borrow from the investment funds an amount not to exceed $3.0 million dollars to allow for cash flow for Tribal government operations for FY 2009, provided that if at such time in the future the Casino Revenues increase beyond the Annual Service payment the amount borrowed from the Investment Fund shall be paid back to the Investment Fund.

In the event that the Odawa Casino Resort Annual Service payments exceeds the amount of $5,000,000, then for each dollar paid to the Tribal Government more than $5,000,000, the amount borrowed from or paid back to the Investment Funds shall be reduced by that equal amount. (I.E. the Tribal Government receives $5,000,001, then the amount allowed to be borrowed from the Investment funds is $2,999,999).

In the event that the Odawa Casino Resort Annual Service payments do not meet the amount of $5,000,000, then the Tribal Chair shall reduce the Executive budget for each dollar less than

$5,000,000, from within the Executive Branch. Under no condition shall the Tribal Chairperson expend funds beyond the amount of revenue received by the Odawa Casino Resort and the supplemental funding from the Investment funds, thus creating a deficit.

In the event that the Odawa Casino Resort Annual Service payment exceeds $8,000,000, then any additional funds beyond the $8,000,000, shall be appropriated through "Process for Appropriations of Supplemental Funding", WOS 2008-004.

The Legislative and Judiciary Branch, Prosecutor and Election Board shall submit revised FY 2009 budgets to the Tribal Council within 30 days of the enactment of this Resolution for Tribal Council approval.

The Tribal Chair shall submit a revised FY 2009 budget for the Executive Branch based on the new figure of $8,000,000, minus the approved revised budgets for the Legislative and Judiciary Branch, Prosecutor and Election Board to Tribal Council within 45 days of the enactment of this Resolution for Tribal Council approval.

Tribal Chairperson shall administer his oversight authority to the extent necessary to ensure that such funds are adequately administered and ensure that the Tribal government does not spend more than the revenue received for FY 2009.

(Source: TRIBAL RESOLUTION #012509-07/Repealed by #071209-08)

15.207 REPEALED: THE ODAWA CASINO RESORT IS IN DEFAULT ON PAYMENTS TO THE TRIBAL GOVERNMENT

A. THEREFORE, BE IT RESOLVED the Gaming Board of Directors shall immediately take measures to ensure all future payments to the Tribal Government are paid on time on a monthly basis by the last day of the month and shall report to the Tribal Council the exact amount of delinquency and shall develop a plan to start immediate payments to bring this balance due current;

B. BE IT FURTHER RESOLVED the Casino shall add to the balance due the Tribal Government interest accrued on the delinquent balance due equal to 1.5% per month for balances

late up to six months and 2% per month for balances over six months delinquent.

(Source: TRIBAL RESOLUTION #030809-02/Repealed by #032209-08)

15.208 PROVIDE FOR A PAYMENT SCHEDULE FOR THE REMAINING BALANCE DUE ON THE LINE-OF-CREDIT FOR BELL'S FISHERY

THEREFORE, BE IT RESOLVED, that Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the payment schedule for repayment of the Line of Credit for Bell's Fishery as follows: Bell's Fishery will pay $60,000 by April 30, 2009, a monthly payment of $1,000.00 beginning May 01, 2009 and lump-sum payments each September for the years 2009, 2010, and 2011 with any remaining balance due shall be paid with the September, 2011 payment.

(Source: TRIBAL RESOLUTION #0302209-07)

15.209 THE ODAWA CASINO RESORT IS IN DEFAULT ON PAYMENTS TO THE TRIBAL GOVERNMENT

A. THEREFORE, BE IT RESOLVED the Gaming Board of Directors shall immediately take measures to ensure all future payments to the Tribal Government are paid on time on a monthly basis by the last day of the month and shall report to the Tribal Council the exact amount of delinquency and shall develop a plan to start immediate payments to bring this balance due current;

B. BE IT FURTHER RESOLVED that this Resolution repeals and replaces TRIBAL RESOLUTION # 030809-002.

(Source: TRIBAL RESOLUTION #0302209-08)

15.210APPROPRIATION OF FUNDS FOR THE 2010 OPERATING BUDGETS AND RESTATEMENT OF FUNDING ALLOCATION FOR THE 2010 FISCAL YEAR

A. THEREFORE, BE IT RESOLVED that priority funding allocation for 2010 fiscal year shall be as follows: Tribal Government 19.85%, Economic Development 21.49%, General

Welfare 39.34%, Distributions 15.22%, Donations 0.24%;

B. BE IT FURTHER RESOLVED that the allocation be split amongst the Divisions as follows: Legislative 3.53%, Judicial 6.16%, Prosecutor 1.27% Election Board 0.29%, and Executive Branch 83.24%;

C. FINALLY BE IT RESOLVED that the 2010 operating budgets are adopted as presented on the budget summary pages 1 to 6 in the amount of $639,185 for the Legislative Branch; $835,482 for the Judicial branch; $39,849 for the Election Board; $171,935 for the Prosecutor; and $27,798,005 for the Executive Branch. This total budget of $29,484,456 includes the revenues derived from the casino operation in accordance with the bond indentures that are subject to the above funding allocation percentages, and the revenues and expenditures anticipated to be received from grants, contracts and cost recovery programs.

(Source: TRIBAL RESOLUTION #041909-05)

15.211 SUPPLEMENTAL FUNDING FOR ELDERS PROGRAM FOR PURCHASE OF A SHUTTLE VEHICLE NOT TO EXCEED $55,000 TO COME FROM PRIOR PERIOD FUNDS

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes supplemental funding to the Elders program budget 2107-2-7005-00, for the purposes of purchasing a new shuttle not to exceed $55,000 to come from prior period funds.

(Source: TRIBAL RESOLUTION #062209-05)

15.212 TO RESCIND TRIBAL RESOLUTION #012509-07 REGARDING TRIBAL GOVERNMENT BUDGET REVISION FOR FISCAL YEAR 2009

A. THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council, through its Constitutional and Statutory duties, rescinds Tribal Resolution 012509-07, provided that the Cost Saving Measures outlined in Executive Directive #10-10062008-01 remain in effect for FY ’09 along with the Cost Saving Measure taken by the

Judiciary, Legislative, Prosecutor and Election Board for FY ’09.

B. FURTHER BE IT RESOLVED that the Tribal Chairperson shall administer his oversight authority to the extent necessary to ensure that funds are adequately administered and ensure that the Tribal government does not spend more than the revenue received for FY 2009.

(Source: TRIBAL RESOLUTION #071209-08)

15.213 MICHELLE CHINGWA EDUCATION ASSISTANCE ACT SUPPLEMENTAL APPROPRIATION OF $70,000 TO REINSTATE SCHOLARSHIP LEVELS AND RATES FOR THE BALANCE OF FY 2009 FROM PRIOR PERIOD FUNDS

THEREFORE, BE IT RESOLVED that the Tribal Council appropriates the sum of $70,000 to the Michelle Chingwa Educational Assistance Fund from prior period funds to supplement the program funding to reinstate the 2009 scholarship levels and rates through the end of FY 2009.

(Source: TRIBAL RESOLUTION #072609-02)

15.214 CASINO DEBT

A. THEREFORE, BE IT RESOLVED that the Tribal Council directs the suspension of any payment of interest in the amount of $6.3 million due August 17th on $122 million of senior unsecured notes and the Chairperson shall administer his oversight authority to the extent necessary to ensure that said payments are suspended until such time that Tribal Council approves otherwise.

B. FURTHER BE IT RESOLVED that the Tribal Council directs the Executive through the Gaming Board of Directors to continue to make any and all other payments in the ordinary course of business and in accordance with existing terms and schedules and the Chairperson shall administer his oversight authority to the extent necessary to ensure that funds are so administered.

C. FINALLY BE IT RESOLVED that the Chairperson is authorized to continue the negotiations of a forbearance agreement with the holders of a majority in principal amount of the

outstanding bonds for final approval by Tribal Council.

(Source: TRIBAL RESOLUTION #080909-01)

15.215 SUPPLEMENTAL FUNDING FOR ELDERS PROGRAM FOR FOOD AND UTILITY ASSISTANCE

THEREFORE, BE IT RESOLVED that the Tribal Council authorizes supplemental funding to the Elders program 2107-2-01 for the purpose of client food and client utility reimbursement program and appropriates $10,000.00 to come from prior period funds.

(Source: TRIBAL RESOLUTION #080909-03)

Chapter Three. Land Matters

15.301 APPROVAL OF LEASE WITH BERG PROPERTY FOR NATURAL RESOURCES HUNTING AND GATHER AND APPROPRIATE $8,000 FROM PRIOR PERIOD FUNDS

A. THEREFORE, BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians approves the leases between Daniel S. Berg as lessor, Little Traverse Bay Bands of Odawa Indians as lessee, and authorizes the Tribal Chairman Frank Ettawageshik to sign the leases by and on behalf of the Tribe.

B. FURTHER, BE IT RESOLVED that the Tribal Council appropriate $8,000.00 from prior period funds to be placed within the Executive Budget to fund the lease.

(Source: TRIBAL RESOLUTION #051709-01)

15.302 REQUEST FOR TRUST ACQUISITION OF PARCEL IN HARBOR SPRINGS, EMMET COUNTY, MI

THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians requests that the Secretary of the Interior accept the above described parcel in trust for the Little

Traverse Bay Bands of Odawa Indians.

(Source: TRIBAL RESOLUTION #061409-06)

15.303 AUTHORIZATION TO GRANT EASEMENT TO EMMET COUNTY FOR NON-MOTORIZED TRAIL ALONG ANDERSON ROAD

THEREFORE BE IT RESOLVED that Little Traverse Bay Bands of Odawa Indians authorizes the Grant of Easement for Non-Motorized Trail to Emmet County, and authorizes the Tribal Chairman to execute the Easement by and on behalf of the Tribe.

(Source: TRIBAL RESOLUTION #080909-02)

15.304 STRATEGIC PLAN FOR TRIBAL LAND ACQUISITION

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council approves the Strategic Plan for Land Acquisition dated August 9, 2009 as submitted by the Land and Reservation Committee and requests and authorizes the Tribal Chairman through his administrative oversight authority to implement the plan in conjunction with Tribal Council.

(Source: TRIBAL RESOLUTION #080909-08)

Chapter Four. Sovereign Immunity

15.401 LIMITED SOVEREIGN IMMUNITY WAIVERS IN ODAWA CASINO RESORT CONTRACTS

A. THEREFORE BE IT RESOLVED THAT the Tribal Council expressly authorizes the Odawa Casino Resort, as an LTBB entity, to waive its common law immunity to suit in the Tribal Court of the Little Traverse Bay Bands of Odawa Indians, including the enforcement of arbitration, when entering into contracts for up to $750,000, to the specific limited extent specified in the contracts it negotiates that are essential to the operation of the gaming and ancillary enterprises. This authorization only applies to the Odawa Casino Resort and assets

under its direct control. Any contracts that allows for any other jurisdiction other than Tribal Court must have prior approval by Tribal Council. Any contracts for $750,000 or more must have prior approval by Tribal Council.

B. FURTHER BE IT RESOLVED THAT this Resolution shall be effective upon signature of the Executive or 30 days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto and shall expire 24 months from the date of enactment.

(Source: TRIBAL RESOLUTION #051709-08)

Chapter 5. Approve Negotiations with Any Other Governments, Businesses or Individuals

15.501 APPROVAL TO SIGN MEMORANDUM OF UNDERSTANDING BETWEEN LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND NORTHWEST MICHIGAN COMMUNITY HEALTH AGENCY

A. THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians approves and supports the MOU for Collaboration and Coordination between the LTBB Odawa Health Department and the Northwest Michigan Community Health Agency.

B. BE IT FURTHER RESOLVED that Tribal Chairman Frank Ettawageshik, Vice Chairman William I. Denemy, or Tribal Administrator Albert Colby Jr., or another designee from the Tribal Chairman is authorized to sign the MOU.

(Source: TRIBAL RESOLUTION #120708-03)

15.502 AUTHORIZATION FOR COOPERATIVE CONSERVATION LAW ENFORCEMENT AGREEMENTS WITH LITTLE RIVER BAND OF ODAWA INDIANS, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA AND SAULT STE MARIE TRIBE OF CHIPPEWA INDIANS

THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes Tribal Chairperson Frank Ettawageshik to execute Cooperative Conservation Law Enforcement Agreements between LTBB, the Little River Band of Ottawa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians, and the Sault Ste. Marie Tribe of Chippewa Indians.

(Source: TRIBAL RESOLUTION #032209-06)

15.503 AUTHORIZATION TO EXECUTE INTERGOVERNMENTAL ACCORD BETWEEN THE TRIBAL LEADERS OF THE FEDERALLY RECOGNIZED INDIAN TRIBES IN MICHIGAN AND THE GOVERNOR OF THE STATE OF MICHIGAN TO ADDRESS THE CRUCIAL ISSUE OF CLIMATE CHANGE

THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians authorizes Tribal Chairperson Frank Ettawageshik to execute the Intergovernmental Accord between the Tribal Leaders of the Federally Recognized Indian Tribes in Michigan and the Governor of the State of Michigan to Address the Crucial Issue of Climate Change, as shown in the draft dated February 23, 2009, or as may be technically revised without changing the content.

(Source: TRIBAL RESOLUTION #041909-04)

15.504 AUTHORIZATION TO ENTER INTO MEMORANDUM OF AGREEMENT WITH THE MICHIGAN DEPARTMENT OF STATE POLICE

THEREFORE BE IT RESOLVED that the Tribal Council of the Little Traverse Bay Bands of Odawa Indians authorizes the Tribal Chairman, by and on behalf of Tribe, to sign the Memorandum of Agreement Between the Michigan Department of State Police and the Little Traverse Bay Bands Of Odawa Indians.

(Source: TRIBAL RESOLUTION #071209-09)

Chapter 6. General Application

15.601 TO LICENSE THE TRIBAL ELDERS ASSOCIATION TO USE THE TRIBAL

LOGO

THEREFORE, BE IT RESOLVED the Tribal Elders Association is licensed to use the Tribal logo for garments and fund raising activities.

(Source: TRIBAL RESOLUTION #030809-01)

15.602 THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL COUNCIL REQUESTS THE UNIVERSITY OF MICHIGAN DISPOSITION ALL REMAINS AND FUNERARY OBJECTS IDENTIFIED AS "NATIVE AMERICAN" OR "UNAFFILIATED/UNIDENTIFIABLE HUMAN REMAINS" AND TURN CUSTODY OF SAID REMAINS OVER TO THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

THEREFORE, BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council requests the University of Michigan disposition all remains and funerary objects identified as "Native American" or "unaffiliated/unidentifiable human remains" and turn custody of said remains over to the Little Travers Bay Band of Odawa Indians.

(Source: TRIBAL RESOLUTION #071209-10)

15.603 NOTICE OF FIREARM PROHIBITION AND CONCURRENT JURISDICTION

THEREFORE, BE IT RESOLVED, that Little Traverse Bay Bands of Odawa Indians Tribal Council requires the Natural Resources Department to place the following language conspicuously on the application for *On/Off Reservation LTBB Hunting/Fishing License:* **"If you are prohibited from owning, possessing or using a firearm under State or Federal Law this license <u>does not</u> protect you from prosecution under State or Federal Law**."

(Source: TRIBAL RESOLUTION #080909-09)