

**Little Traverse Bay Bands of Odawa Indians**  
**CONSTITUTIONALLY MANDATED RULES OF CONDUCT**  
**for OFFICIALS of TRIBAL GOVERNMENT**

**SECTION I. PREAMBLE**

Little Traverse Bay Bands of Odawa Indians officials are Public Servants and public service is public trust. Each Official has a responsibility to the Tribe and its Tribal Citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every Tribal Citizen can have complete confidence in the integrity of the Tribal Government, each Official shall respect and adhere to the principles of ethical conduct set forth in these Rules.

**SECTION II. SHORT TITLE.**

These Rules shall be known and cited as the Little Traverse Bay Bands of Odawa Indians' "Rules of Conduct."

**SECTION III. PURPOSE**

According to the Little Traverse Bay Bands of Odawa Indians Tribal Constitution, Section Article VII, (D)(6), the Tribal Council shall have the power to: "*Adopt rules of conduct to govern all levels of Tribal government*". The purpose of Rules of Conduct is to establish clear standards for the principles and expectations that are binding on Tribal Officials.

**SECTION IV. DEFINITIONS**

1. "*Compensation or Income*" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.
2. "*Confidential Information*" means information which by law or practice is not available to the public at large.

3. *“Conflict Of Interest”* means a situation in which the private interests of someone involved with the Tribe could cause him or her to make decisions that are not in the best interest of the Tribe.
4. *“Constitutionally Mandated Official positions”* mean the following individuals: Members of Tribal Council, the Chairperson and Vice Chairperson, and Members of the Judiciary and Members of the Election Board and Prosecutors.
5. *“De Minimis”* means that even if a violation of a law appears to exist according to the letter of the law, the effect is too small to be of consequence and the violation should not be considered sufficient for a cause of action.
6. *“Dependent Business”* means any business in which the person, individually or combined, has any direct or indirect ownership, investment, security or other beneficial interest amounting to more than 10% of such business.
7. *“Economic Interest”* means an interest held by a person, members of the person’s immediate family living in the same household or a dependent business, which is:
  - a) any ownership, income, investment, security or other beneficial interest in a business; or
  - b) any employment or prospective employment for which negotiations have already begun.
8. *“Gift”* means includes any gratuity, favor, hospitality, payment, loan, economic opportunity, deposit of money, services, or other benefit received without equivalent consideration and not extended or provided to members of the public-at-large.
9. *“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, son-in-law, daughter-in-law or a person whose relationship with the Tribal Citizen is similar to that of persons who are related by blood or marriage.
10. *“Official”* means any person holding an elective or appointed office in any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency and any establishment within the Executive, Legislative or Judiciary branch of the Tribe including Members of the Election Board and Prosecutors.
11. *“Rules”* means a body of principles and standards promulgated by Tribal Council that govern activity and/or behavior.
11. *“Tribe”* or *“LTBB”* means the Little Traverse Bay Bands of Odawa Indians.

Constitutionally Mandated Rules of Conduct for Officials of Tribal Government – (Passed 090708)

## **SECTION V. GENERAL STANDARDS OF CONDUCT**

- A.** The following general standards shall apply to every Official of the Tribe:
- 1.** Shall not hold financial interests that conflict with the performance of duty.
  - 2.** Shall not engage in financial transactions using nonpublic information or allow the improper use of such information to further any private interest.
  - 3.** Shall not solicit or accept any gift or other item of monetary value from any person or entity except as provided by these Rules.
  - 4.** Shall put forth honest effort in the performance of their duties.
  - 5.** Shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Tribe.
  - 6.** Shall not use public office for private gain.
  - 7.** Shall act impartially and not give preferential treatment to any private organization or individual.
  - 8.** Shall protect and conserve Tribal property and shall not use it for other than authorized activities.
  - 9.** Shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities.
  - 10.** Shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
  - 11.** Shall adhere to all laws and regulations that provide equal opportunity for all people regardless of race, color, religion, sex, national origin, age, or disability.
  - 12.** Shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in these Rules of Conduct. Whether particular circumstances create an appearance of violation shall be determined from the perspective of a reasonable person with similar knowledge of the relevant facts.

13. Shall not use their position to unduly influence the Tribal concerns of a relative, friend, neighbor, or acquaintance; or to unduly influence another official who has responsibility for those concerns

14. Shall not receive special consideration or treatment when applying for and or receiving any Tribal services or are being investigated by any Tribal agency.

15. Shall not have an unlawful interest in a public contract. Nor shall they directly or indirectly represent that they have any ability to influence the outcome of any bid, proposal, contract or the administration or application of any policy.

16. Shall recuse themselves from any discussions, abstain from voting, or otherwise participating in any matter related to their service in another capacity with any other organized entity, whether public or private that may conflict with the performance of their official duties.

## **SECTION VI. CONFLICT OF INTEREST**

The provisions in this Section of the Code are intended to expand upon the existing provisions regarding conflict of interest found in Article XV of the Tribal Constitution.

**A.** No Official shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing their private economic gain or that of any special business interests with which they are associated, before those of the Tribal membership, whose paramount interests their office or employment is intended to serve.

**B.** Officials shall avoid any action, whether or not specifically prohibited by the Code of Conduct set out herein, which could result in, or create the appearance of:

1. Using public office for private gain;
2. Giving preferential treatment to any special interest organization or person;
3. Impeding governmental efficiency or economy;
4. Losing or compromising complete independence or impartiality of actions;
5. Making a government decision outside official channels;

6. Adversely affecting the confidence of the Tribal Citizens in the integrity of the government of the Tribe.

C. Participate in the selection, or in the award or administration of a contract supported by Federal funds and/or Tribal funds, if a conflict of interest, real or apparent, would be involved.

D. A conflict of interest shall be deemed to arise for purposes of this section when the elected official or any member of their immediate family, or an organization or firm which employs such official, or family member has a financial or other interest in the firm or person selected for the contract or grant award.

## **SECTION VII. ANTI-NEPOTISM**

No Tribal government official shall employ, elect, appoint or otherwise cause to be employed, nor nominate or otherwise influence the appointment or employment to any Tribal office or position within the Tribe or any governmental or political subdivision thereof, any person or persons in their immediate family, nor any member of the same household.

## **SECTION VIII. CONFLICT OF INTEREST STATEMENTS AND OFFICIAL ACTION**

A. Disclosure: It is the premise that all who have interests which might conflict with their duties should divulge those interests. Disclosure shall also extend to those interests held by his/her immediate family.

B. When an Official is required to take official action on a matter in which such Official has a personal economic interest, they should first consider eliminating that interest. If that is not feasible, such Official shall:

1. Disclose the potential conflict, as soon as such Official is aware of the conflict;

2. Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter.

C. Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body.

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## **SECTION IX. ECONOMIC INTERESTS**

To avoid using governmental positions to serve their own personal, financial, or business interests, Officials shall:

- A.** Not participate in governmental decisions in which they have a business, financial, or professional interest outside of the Tribe.
- B.** No Official shall accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment, beyond the amount or value which is authorized and received in their official capacity for performing such duties.
- C.** Not solicit, or offer anything of value in the course of business dealings;
- D.** Avoid using the Tribe's resources to their own personal, financial, or business interests. Officials shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.
- E.** No Official, however, shall accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.
- F.** Strictly prohibit kickback, bribes, rebates or any kind of benefits intended to induce business benefits.
- G.** Report reimbursable expenses accurately and to only one source; and avoid receiving any financial gain as a result of business travel or entertainment.
- H.** Officials shall use supplies and services in a manner that avoids waste or abuse. Be responsible and accountable for the proper use of all Tribal property and equipment entrusted in their care.
- I.** Officials shall not engage in, directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon, information obtained through their public office or employment; nor acquire any economic or other financial property, contractual or other economic interest at a time when they believe or have reason to believe, that it will directly and substantially affect or be so affected by their official actions or duties.

**SECTION X. TRIBAL GOVERNMENT CONTRACTS: RESTRICTIONS AND BID REQUIREMENTS**

**A.** No Official shall participate in the selection or in the award or administration of a contract or grant award of funds from any government agency, if a conflict of interest, real or apparent, shall be involved.

**B.** No Official or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any government contract of the Tribe or of any investment of funds of the Tribe, unless the contract or the investment meets the following requirements:

1. The contract is let by notice and competitive bid or procurement procedures as required under the applicable laws, rules, regulations and policies of the Tribe, for necessary materials or services for the governmental agency or entity Involved; and

2. In the continuous course of business, the bid was commenced before the Official assumed their current term of office or employment; and

3. The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the Official or a member of their immediate family; and

4. The Official has taken no part in the determination of the specifications, deliberations or decisions of a governmental agency with respect to the public contract.

**C.** This provision shall not apply to such persons qualifying for housing benefits from the Tribe or for medical benefits from the Indian Health Service or other programs available to all Tribal Citizens.

**SECTION XI. GIFTS AND CAMPAIGN CONTRIBUTIONS**

**A.** No Official shall solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution on generally available terms) or any other benefit from any person, organization or group of which:

1. is attempting to influence the performance or nonperformance of the official's duties;

2. is seeking to obtain a contract, grant, loan, employment, or any financial relationship from or within the Tribe;
3. has a financial relationship with the Tribe;
4. has activities that are regulated or inspected by the Tribe;
5. is in a legal proceeding of which the Tribe is an adverse party;

**B.** The following are not considered gifts and may be accepted by an official:

1. Social hospitality based on personal relationships;
2. Modest items, such as food and refreshments, offered as a matter of social hospitality;
3. Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
4. Rewards and prizes given in contests or events, including random drawings, that are open to the public and that are available based on factors other than official or employment status;
5. Scholarships or fellowships awarded on the same terms and based on the same criteria applied to other applicants;
6. Acceptance of an award for meritorious achievement from a charitable, religious, professional, recreational, social, fraternal, public service, or civic organization;
7. Acceptance of a plaque or memento of nominal value offered as a token of esteem or appreciation on the occasion of a speech or public appearance;
8. Small tokens or favors given to everyone attending a function or celebrating an occasion;
9. Traditional gifts; such as feathers, pouches and blankets.
10. Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;

**C.** Candidates for elected positions may solicit and accept funds or other contributions for his or her campaign provided that:

1. Only individuals who are Tribal Citizens may make contributions to campaigns.
2. No contributions from non-Tribal Citizens may be solicited or accepted unless received from members of the candidate's immediate family. Funds received from such family members may not be derived from other people or organizations.
3. Record of all contributions shall be kept. Such record must identify the person making the contribution, the date received, and the amount or type of contribution made. Contribution shall also include the donation of money or in-kind donation of a person's efforts or services (personal or professional) in support of a particular candidate or candidates.
4. Each candidate shall be responsible for the recording of the financial activities of his or her campaign.
5. Within thirty (30) calendar days following the date of a General Election, each candidate shall report to the Election Board all campaign contributions received and expenditures made on his or her behalf. Such report shall include all individual contributions, listing the name and address of each person making a contribution and the amount contributed.

## **SECTION XII. DEBTS OWED TO THE TRIBE**

All Officials who are delinquent in debt(s) of six (6) months or more to the Tribe and who has not made reasonable arrangements for payment of said debt(s) shall be suspended from receiving any payment for services until such debt is paid in full.

## **SECTION XIII. ABUSE OF POWER**

**A.** No Official shall knowingly or intentionally seek to in any manner benefit from the profits of any contract, job, work, or service for the Tribe, or accept any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally from any person, firm, or corporation having dealings with the Tribe.

**B.** No Official shall knowingly or intentionally seek to use his or her official influence to assist any person for a fee or other compensation other than the compensation that is provided by law. The performance of usual and customary constituent services without additional compensation does not constitute the use of prestige of office for private gain.

C. No Official shall knowingly and independently use his or her position with the tribe to access information, documents, or other materials which are not available to all Tribal citizens generally, unless such access is available as a part of their duties and/or position.

#### **SECTION XIV. CONFIDENTIAL INFORMATION**

No Official shall disclose confidential information which he or she has acquired by reason of their position nor shall such information be use and/or disclosed to further their own economic and personal interest or that of anyone else.

#### **SECTION XV. USE OF PUBLIC PROPERTY**

No Official shall use, request, or permit the use of the Tribe's motor vehicles, equipment, materials, or property, except for the conduct of official business.

#### **SECTION XVI. ETHICS VIOLATIONS; ETHICS COMMITTEE; HEARINGS; PENALTIES AND CONSEQUENCES**

- A. The Ethics Committee shall be comprised of three members from Tribal Council.
- B. The length of term of the appointment shall be two (2) years, provided that the person is serving in their official capacity on Tribal Council.
- C. Any Tribal Citizen, who claims that a Tribal Official has violated the Rules of Conduct, shall submit a signed notarized written statement alleging a violation against one or more named persons and shall include the following:
  - 1. The specific section of the Rules of Conduct that has been violated;
  - 2. A clear and concise statement of the alleged actions and facts
- D. The complaint must be filed with the Legislative Office within 60 days of the alleged violation.
- E. The Committee shall have no jurisdiction in absence of a complaint. A member of the Committee may file a complaint. If a complaint is filed by an individual and later withdrawn, the Committee may still proceed with the proceedings.

F. The Legislative Office upon receipt of a complaint shall forward it to the Ethic Committee members.

G. The Ethics Committee has the authority to conduct an investigation of the alleged violations.

H. All Ethics Committee proceedings, including the initial complaint, would remain confidential until a final determination is made except:

1. the Committee may, at any time, turn over to the Tribal Prosecutor evidence which may be used in criminal proceedings; and

2. if the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Committee may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.

I. Following a preliminary investigation of a complaint, the Committee would have several options:

1. dismiss the complaint if no such substantial credible evidence is found;

2. admonish the Official either privately or publicly if such substantial credible evidence is found, but the alleged violation is inadvertent, technical or otherwise of de minimis in nature;

3. recommend it for a hearing before the Tribal Council where there is such substantial credible evidence and the matter cannot be disposed of as de minimis along with a recommendation of potential sanctions. Such sanctions may include but not limited to: censure, payment of restitution, suspension, or a combination of these, but shall not include removal for Constitutionally Mandated Official positions other than Prosecutor or Assistance Prosecutor.

J. The Tribal Council retains the authority to discipline Officials for violations of the Rules of Conduct, up to but not including removal from Office.

K. The jurisdiction of the Committee may run concurrent with any other court, commission or tribunal.

L. Any frivolous complaints that may be filed for political purposes, where the person knew to be false would be barred from filing any future complaints.

## **SECTION XVII. RECALL, REMOVAL and OTHER CODES OF CONDUCT**

Constitutionally Mandated Rules of Conduct for Officials of Tribal Government – (Passed 090708)

A. The Tribal Constitution provides for the recall and removal of the Members of the Tribal Council, the Chairperson and Vice Chairperson, and Members of the Judiciary and Members of the Election Board and other Elected or Appointed Officials. The Tribal Council shall defer to the procedures outlined in the Tribal Constitutions for all matters relating to removal or recall of such named Officials.

B. According to the Tribal Constitution, the Tribal Council may remove a Prosecutor or Assistance Prosecutor.

C. Nothing in these Rules prevents the individual Branches of government from adopting individual Codes of Conduct that provide for internal procedures for violations of Ethics and from making determinations of violations that may or may not be concurrent with these Rules.

#### **SECTION XVIII. RECUSAL**

Any Ethics Committee member facing the allegation(s) at issue shall recuse him or herself from the Ethics Committee, and the Tribal Council shall appoint another in his or her place.

#### **SECTION XIX. SAVINGS CLAUSE**

In the event that any phrase, provision, part, paragraph, subsection or section of these Rules are 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 these Rules, the entirety of the balance of the Rules to remain in full and binding force and effect.

#### **SECTION XX. EFFECTIVE DATE**

Effective upon approval by a vote of the majority of Tribal Council.

Motion made by Councilor McNamara and supported by Secretary Gasco Bentley to table the Fair Employment Rights Statute to the next Tribal Council work session.

Vote: 8 - Yes, 0 - No, 0 - Abstained, 1 – Absent (Councilor Oldman)

Motion carried.

Motion made by Councilor Kiogima and supported by Councilor Mulholland to pass Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.

Vote: 6 - Yes, 2 - No (Councilor Harrington, Jr., Councilor Kiogima), 0 - Abstained, 1 – Absent (Councilor Oldman)

Motion carried.

3:06 p.m. Public Comment opened: no comments.

3:07 p.m. Public Comment closed.

Motion made by Councilor Kiogima and supported by Councilor Mulholland to place the Grant, Donation and Other Funding Policy on the Draft Work Product agenda.

Vote: 8 - Yes, 0 - No, 0 - Abstained, 1 – Absent (Councilor Oldman)

Motion carried.

Motion made by Councilor Yellowbank and supported by Secretary Gasco Bentley for Tribal Council to have a Special Meeting to review closed session minutes for disclosure purposes on October 18, 2008.

Vote: 8 - Yes, 0 - No, 0 - Abstained, 1 – Absent (Councilor Oldman)

Motion carried.

Motion made by Councilor Yellowbank and supported by Treasurer Chingwa to declare pages 93 & 94 of the Gaming Board of Directors report confidential.

Vote: 6 - Yes, 1 – No (Councilor Harrington, Jr.), 0 - Abstained, 2 – Absent (Councilor Oldman, Councilor McNamara)

Motion carried.

Motion made by Councilor Harrington, Jr., and supported by Councilor Mulholland to approve 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:

**TRIBAL MOTION #090708-2008-1**

**WHEREAS** the Waganakising Odawak Nation, known as the Little Traverse Bay Bands of Odawa Indians, and its citizens are vested with inherent sovereignty and right to self-governance;

**WHEREAS** the Little Traverse Bay Bands of Odawa Indians (“LTBB” or “Tribe”) is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States the most recent of which being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);