

Waganakising Odawak Statute # 2008-006
Enrollment for Citizenship Statute

SECTION I. 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.

SECTION II. 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.

SECTION III. AUTHORITY

According 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.*

SECTION IV. 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.

SECTION V. DESCENDANT ELIGIBILITY

A. 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 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 linear 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.

SECTION VI. 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 199005, Section V (B) (4); WOS 199014,

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.

SECTION VII. 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 1836 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 jingtamon (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.

SECTION VIII. 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 be adopted into Citizenship of the Tribe shall complete a “Petition for Adoption into 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.

SECTION IX. 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, the 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.

SECTION X. 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.

SECTION XI. 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.

SECTION XII. 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.

SECTION XIII. 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.

SECTION XIV. 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.

SECTION XV. 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 ineligibility, 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.

SECTION XVI. TRIBAL CITIZENSHIP COMMISSION

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

SECTION XVII. 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.

SECTION XVIII. 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.

SECTION XIX. 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 whom 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.

SECTION XX. 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.

SECTION XXI. 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.

SECTION XXII. SAVINGS CLAUSE

In the event that any section, subsection or phrase of this Statute is found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such part shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect so long as the overall intent of the Statute remains intact.

SECTION XXIII. 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.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on May 4, 2008 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	<u>X</u>	_____	_____	_____
Melvin L. Kiogima	<u>X</u>	_____	_____	_____
Dexter McNamara	<u>X</u>	_____	_____	_____
Marvin Mulholland	<u>X</u>	_____	_____	_____
Shirley Oldman	_____	_____	_____	<u>X</u>
Alice Yellowbank	<u>X</u>	_____	_____	_____
Gerald V. Chingwa	<u>X</u>	_____	_____	_____
Regina Gasco Bentley	<u>X</u>	_____	_____	_____
Beatrice A. Law	<u>X</u>	_____	_____	_____

Date: _____

Beatrice Law, Legislative Leader

Date: _____

Regina Gasco Bentley, Secretary

Received by the Executive Office on _____ by _____

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

Date: _____

Frank Ettawageshik, Tribal Chairperson