WAGANAKISING ODAWAK STATUTE 2010-004

CONTEMPT OF COURT

SECTION I. SHORT TITLE

This Statute shall be known and cited as the Little Traverse Bay Bands of Odawa Indians' "Contempt Statute."

SECTION II. PURPOSE

The purpose of this Statute is to provide the Court statutory authority to find persons who may have committed a contemptible act either in the presence of the Court or outside of the presence of the Court guilty of Contempt of Court, a civil infraction.

SECTION III. DEFINITIONS

A. "Contemnor" means a person who is guilty of Contempt of Court.

B. "LTBB Reservation" means all lands and waters as described in the LTBB Constitution Article III (H).

C. "Officer of the Court" means any person who has an obligation to promote justice and effective operation of the judicial system, including attorneys who appear in Court, bailiffs, clerks, and other personnel.

D. "Tribe" or "LTBB" means the Waganakising Odawa, also known as the Little Traverse Bay Bands of Odawa Indians.

E. "Tribal Court" means the LTBB Court created under Article IX of the LTBB

Constitution.

SECTION IV. JURISDICTION

This Statute shall apply to all persons over whom LTBB exercises civil jurisdiction.

SECTION V. CONTEMPT OF COURT

A. Contempt of Court shall include any of the following:

1. Willful behavior committed during the sitting of a Court with the intent to interrupt its proceedings.

2. Willful behavior committed during the sitting of a Court and in the Court's presence that is disrespectful to either the Judge, the Court, any juror or witness, or any Officer of the Court.

3. Willful disobedience of, resistance to, or interference with a lawful Court process, order, directive, or instruction or the execution of same.

4. Willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, willfully refuses to answer any legal and proper question when the refusal is not legally justified.

5. Willful or grossly negligent failure by an Officer of the Court to perform his or her duties in an official transaction.

6. Willful or grossly negligent failure to comply with schedules and practices of the Court resulting in substantial interference with the business of the Court.

7. Failure to comply with an order of a Court.

B. In order for the Court to find Contempt of Court, the Court must find that the act or omission was willfully contemptuous; or the act or omission was preceded by a clear warning by the Court that the conduct is improper.

SECTION VI. CORPORATION IN CONTEMPT

An order against a corporation for willful disobedience may be enforced by one or more of the following:

1. Imposition of a fine upon the corporation.

2. Imprisonment of one or more directors or officers of the corporation;

3. Imposition or a fine upon one or more directors or officers of the corporation.

SECTION VII. PROCEEDINGS FOR CONTEMPT

A. The presiding Judge may summarily impose measures in response to direct contempt when necessary to restore order or to maintain the dignity and authority of the Court and when the measures are imposed substantially contemporaneously with the contempt. Before imposing measures, the Judge must give the person charged with contempt summary notice of the charges and a summary opportunity to respond and must find facts that support the summary imposition of measures in response to contempt.

B. A Judge can choose instead of proceeding summarily to proceed by an order directing the person to appear before a Judge at a reasonable time specified in the order and show cause why he or she should not be held in Contempt of Court.

C. A copy of the order must be furnished to the person charged.

D. If contempt is based upon acts before a Judge which so involve him that his objectivity may reasonably be questioned, the order must be returned before a different Judge.

E. The person ordered to show cause may move to dismiss the order.

F. The person charged with contempt may not be compelled to be a witness against himself or herself in the hearing.

G. At the conclusion of the hearing, the Judge must enter a finding as to whether the person is guilty or not guilty of Contempt of Court. If a person is found to be guilty of Contempt of Court, the Judge must make findings of fact and enter a judgment.

H. The Judge presiding over the hearing may appoint a prosecutor or, in the event of an apparent conflict of interest, some other member of the bar to represent the Court in hearings for contempt.

SECTION VIII. CONTEMPT OF COURT CONFINEMENT AND FINES

A. A person, who is found to be in contempt of court may be confined up to thirty (30) days or fined not more than $500.00, or both and the court may charge the individual for cost of incareration.

B. The Judge who finds a person in contempt may at any time withdraw, terminate or reduce a sentence of imprisonment, or remit or reduce a fine imposed as punishment for contempt, if warranted.

C. A person who fails to comply with a Court Order may be held in contempt as long as:

1. The order remains in force;

2. The purpose of the order may still be served by compliance with the order; and

3. The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable him to comply with the order.

4. Ordered by the court, but not more than thirty (30) days or fined more than $500.00 or both.

D. A person confined for contempt must be released when his or her contempt no longer continues. The order of the Court holding a person in contempt must specify how the person may purge himself or herself of the contempt. Upon finding compliance with the specifications, the officer having custody may release the person without further order from the Court.

E. On motion of the contemnor, the Court must determine if he or she is subject to release and, on an affirmative determination, order the release. The motion must be directed to the Judge who found contempt unless unavailable. The contemnor may also seek release under other procedures available under law.

SECTION IX. 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.

SECTION X. 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.

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 February 21, 2010 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

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

Date: 2-21-10

Julie A. Shananaquet, Legislative Leader

Date: 2-21-10

Regina Gasco Bentley, Secretary

Received by the Executive Office on 2-22-10 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: 3-11-10

Ken Harrington, Tribal Chairperson

Contempt of Court