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WAGANAKISING ODAWAK STATUTE
MARRIAGE

SECTION I. PURPOSE

The purpose of this act is to govern the making of marriages under Tribal law and this statute shall repeal and replace WOS 2007-001 and WOS 2013-003.

SECTION II. DEFINITIONS

- A.** “Adult” means a person eighteen (18) years of age or older.
- B.** “Deputy Marriage Clerk” means a person who has been issued a Marriage commission by the Little Traverse Bay Bands of Odawa Indians Marriage Clerk.
- C.** “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)).*
- D.** “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- E.** “Marriage” means the legal and voluntary union of two persons to the exclusion of all others.
- F.** “Marriage Clerk” means the Little Traverse Bay Bands of Odawa Indians staff person responsible for filing and maintaining records under this Statute.

1 **G.** “Tribal Citizen” means an enrolled member of Little Traverse Bay Bands of
2 Odawa Indians.

3
4 **H.** “Tribal Court” means the Tribal Court of the Little Traverse Bay Bands of Odawa
5 Indians as defined in the LTBB Constitution.

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8 **SECTION III. MARRIAGE AND THE CAPACITY TO MARRY**

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10 **A.** Marriage as a civil contract. To be valid, and for purposes of this law, marriage is
11 a civil contract, to which the consent of parties capable of making it is necessary.
12 Consent alone will not constitute a marriage. A marriage relies upon the issuance of a
13 license, a ceremony solemnizing the marriage, and the issuance of a marriage certificate.

14
15 **B.** Capacity to consent. A person seeking to be married must fulfill each of the
16 following requirements:

- 17
18 1. Freely consent to the marriage and have the mental capacity to marry;
19
20 2. One of the persons in the marriage must be an enrolled LTBB Citizen.
21
22 3. Be at least eighteen (18) years of age or older as evidenced by a birth
23 certificate, be at least sixteen (16) years of age as evidenced by a birth certificate
24 with the consent of a parent or legal guardian, which consent must be notarized,
25 or has been emancipated by a court of competent jurisdiction;
26
27 4. Not have an existing spouse;
28
29 5. Not be blood relatives to each other in any of the following degrees:
30 a. Parent and child;
31 b. Grandparent and grandchild;
32 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.

SECTION IV. MARRIAGE LICENSES

A. Application for Marriage License. All persons wishing to be married in accordance with this act shall obtain a marriage license from a Marriage Clerk or Deputy 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. LTBB Tribal affiliation, if applicable;
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;

1 8. The names of each person’s parents and the place of birth for each parent,
2 if known. For each person’s mother, the mother’s name before first marriage
3 shall be identified, if known;
4

5 9. If either person is a minor, the name and address of the parents, adoptive
6 parent, or guardian of each party; or if emancipated, certified copies of papers
7 granting emancipation;
8

9 10. Whether the parties are related to each other and, if so, their relationship;
10

11 11. The name and date of birth of any child of which both parties are parents,
12 born before the making of the application, unless their parental rights and the
13 parent and child relationship with respect to the child have been terminated;
14

15 12. A statement of consent to the civil jurisdiction of the Tribe.
16

17 **B.** Authority of Marriage Clerk and Deputy Clerks to issue marriage licenses.
18

19 1. A Deputy Clerk or a Marriage Clerk shall have the power to issue a
20 marriage license.
21

22 2. A Deputy Clerk or Marriage Clerk shall issue a marriage license upon
23 validation of the following:
24

25 a. a properly-completed application for a marriage license;
26

27 b. payment of a license fee not to exceed \$25.00; and
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29 c. A statement of consent to the civil jurisdiction of the Tribe.
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31 **C.** Validity of License. A marriage license shall be valid for thirty (30) days from
32 the date of issuance.

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SECTION V. 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;
- f. A Tribal Notary; and
- g. 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 within the jurisdiction of the Tribe.

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

1 person performing the ceremony may administer oaths and examine the identification of
2 the persons seeking to be married.

3
4 **D.** Marriage ceremony. A marriage ceremony performed under this act need not take
5 any particular form, but the persons seeking to be married must declare in the presence of
6 the person performing the ceremony, and in the presence of two adult witnesses, that they
7 receive each other as spouses.

8
9 **E.** Completion of License. After the ceremony, the person who performed the
10 marriage ceremony shall sign and endorse the marriage license with a statement that shall
11 include their name, address, and title; the time and place of the ceremony; and the names
12 and places of residence of two witnesses. The two witnesses shall also sign the marriage
13 license.

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16 **SECTION VI. PROCEDURE FOR RECOGNITION OF MARRIAGES**
17 **AFTER SOLEMNIZATION**

18
19 **A.** Return of fully-executed marriage license to the Marriage Clerk. Following the
20 marriage ceremony, the fully executed marriage license shall be returned to the Marriage
21 Clerk within seven (7) days.

22
23 **B.** If the marriage license was issued by a Deputy Clerk, the application for the
24 license and the fully-executed marriage license shall be sent to the Marriage Clerk.

25
26 **C.** Endorsement of marriage license by Marriage Clerk. The Marriage Clerk must
27 endorse upon each copy its date of receipt.

28
29 **D.** Marriage Clerk issuance of marriage certificate. Upon receipt of a fully-executed
30 marriage license and a copy of the marriage license application, the Marriage Clerk must
31 examine the application, the license, and the signatures of the witnesses and the person
32 performing the marriage to ensure that the information appearing is complete and that the

1 marriage was performed in accordance with the provisions of the license. Upon a
2 determination that the application, the license, and the signatures are in proper form, and
3 that there has been compliance with the terms of the license, the Marriage Clerk shall
4 endorse its approval upon the license, shall cause a certificate of marriage to be issued,
5 and deliver a copy of the marriage license to the persons for whom it was issued.

6
7 **E.** Storage of marriage certificate records. The Marriage Clerk shall file the
8 certificate of marriage together with the application for marriage license and the marriage
9 license with the permanent records of the Tribe.

10
11 **F.** Obtaining certified copies of marriage certificate. Should the parties to any
12 marriage performed under the auspices of these provisions desire that a marriage
13 certificate be filed or recorded in another jurisdiction, they may obtain certified copies
14 from the Marriage Clerk at a fee not to exceed \$25.00.

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17 **SECTION VII. DEPUTY MARRIAGE CLERK**

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19 **A.** Qualifications. The Marriage Clerk shall issue a Marriage commission to any
20 qualified person who submits an application in accordance with this Statute. The
21 Marriage Clerk may charge a reasonable application fee. A person qualified for a
22 Marriage commission shall be:

- 23
24 1. At least 18 years of age;
- 25
26 2. Resides or has a regular place of work or business within the boundaries
27 of the Little Traverse Bay Bands of Odawa Indian's reservation;
- 28
29 3. A citizen of the Little Traverse Bay Bands of Odawa Indians;
- 30
31 4. Is a registered Tribal Notary;
- 32

- 1 **5.** Has legal residency in the United States;
- 2
- 3 **6.** Able to read and write;
- 4
- 5 **7.** May be required to submit documentation of a full criminal background
- 6 check.
- 7

8 **B.** Application Materials. Every application for a Marriage commission shall be
9 made on forms determined by the Marriage Clerk that shall include:

- 10
- 11 **1.** The applicant’s name and date of birth;
- 12
- 13 **2.** The applicant’s residence address and telephone number;
- 14
- 15 **3.** The applicant’s business address and telephone number, the business
- 16 mailing address, if different, and the name of the applicant’s employer, if
- 17 any;
- 18
- 19 **4.** A declaration that the applicant is a citizen of the Little Traverse Bay
- 20 Bands of Odawa Indians and documentation of proof;
- 21
- 22 **5.** A declaration that the applicant is a citizen of the United States or proof of
- 23 the applicant’s legal residency in this country;
- 24
- 25 **6.** A declaration that the applicant can read and write;
- 26
- 27 **7.** All issuances, denials, revocations, suspensions, restrictions, and
- 28 resignations of a notarial commission, professional license, or public
- 29 office involving the applicant in this or any other tribe, state or nation;
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- 31 **8.** All criminal convictions of the applicant, including any pleas of admission
- 32 or nolo contendere, in this or any other tribe, state or nation;

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- 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 Marriage Clerk may deem appropriate.

B. Application Denial. The Marriage Clerk 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

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**SECTION VIII. 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.

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.

SECTION IX. 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.

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