



Waganakising Odawak
Little Traverse Bay Bands of Odawa Indians
Regina Gasco -Bentley, Tribal Chairperson
7500 Odawa Circle, Harbor Springs, Michigan 49740
Phone 231-242-1401 • Fax 231-242-1411

September 19, 2019

Re: Gaming Regulatory Statute

I am vetoing this statute based on the comments I have received from the Gaming Regulatory Commission.

Respectfully submitted,

Regina Gasco Bentley
Tribal Chairperson



LTBB Gaming Regulatory Commission
911 Spring St., Petoskey MI, 49770

September 5, 2019

Regina Gasco-Bentley, LTBB Tribal Chairperson
7500 Odawa Circle
Harbor Springs, MI 49740

Dear Chairperson Gasco-Bentley,

This letter is submitted in regard to Regulatory and OCR review of the Gaming Regulatory Statute, LEG-245, recently approved by Tribal Council.

Regulatory and the Gaming Operation do not support the removal of Non-Key licensing. Some of the primary reasons are listed below:

- Regulatory has more resources available for background investigations such as signed release forms and the ability to contact other Regulatory agencies, courts, and law enforcement.
- Requesting Criminal History for employment may be limited under State and Federal law, Licensing does not fall under these limitations.
- Licensing Non-Key employees provides another step that ties employees to Tribal Law.
- Removing Non-Key will require Human Resources to conduct background investigations and could create a conflict with the Fair Employment Statute and the Sexual Harassment & Domestic Violence Statute. The Fair Employment Statute does not allow discrimination for arrest, detention records or other disposition that did not result in a conviction. The Sexual Harassment & Domestic Violence Statute does not require a conviction.
- The Gaming Licenses are issued based on established suitability guidelines. Employment is based on minimum qualifications standards. The gaming operation will need to clearly define hiring standards as they relate to criminal history and then if desired develop a process to grant waivers to Tribal Citizens.
- The Gaming Regulatory Commission has an established method for hearings and can issue waivers for Tribal Citizens. This could be developed by the gaming operation but would most likely involve a grievance process utilizing an employee's peers. This could result in breaches of confidentiality regarding an applicant's criminal history.
- There are currently several positions identified as Non-Key that Regulatory and the Gaming Operation have determined that the Licensing background investigation is critical due to the ability for Licensing to access information and the access the employee will have while completing their duties. One example is Hotel Room Attendant. This position has access to guest rooms and belongings, Theft that did not result in a conviction could be missed and may create liability for the Tribe.
- The National Indian Gaming Commission (NIGC) and the Federal Bureau of Investigation (FBI) are limiting fingerprints that can be processed through the NIGC. Several positions that are currently classified under LTBB Tribal Regulations as Key will no longer be licensed as Key. These positions will be Non-Key and will include Information Technology, Accounting, Human Resources, and Marketing. Based on access to information, it is our opinion that these positions should still be subject to a background investigation and licensing.

The Gaming Regulatory Commission does not support the separation of Commission and staff in the revised statute. That and additional concerns are listed below:

- Commissioners attend the National Indian Gaming Association (NIGA) Commissioner Certification Training. This training is extensive and covers the roles and responsibilities of a Gaming Commission. The Tribe has invested approximately \$75,000 to ensure the Commissioners are trained and capable of providing regulatory oversight of the Tribes gaming operations.

LTBB Gaming Regulatory Commission
911 Spring St., Petoskey MI, 49770

- Regulatory staff reporting to the Gaming Commission is considered a best practice in Indian Gaming. This structure provides the staff a separation from the politics and allows gaming regulation to be conducted with minimal political influence.
- A section that prohibited Tribal Council review of licensing or fining actions of the Commission has been removed. That language was inserted by Tribal Leadership. A Regulatory decision was overturned by Tribal Council years ago and subsequent Tribal Councils wanted to make sure that did not happen again.
- Sports Betting is included in the revised statute. Sports Betting is not yet legal in the State of Michigan and is not covered by the Tribal/State Compact.
- Section 28, Annual Fees, 2. Is incorrect. The National Indian Gaming Commission reverted back to quarterly submissions several years ago.
- A major revision of a document this important to the regulatory oversight of the Tribe's primary revenue generator should involve the participation of Tribal Leadership, Regulatory and Gaming Operation Management.

Respectfully submitted,



Vince Cook
Regulatory Director
LTBB Gaming Regulatory Commission

**LTBB Gaming Regulatory Commission
911 Spring St., Petoskey MI, 49770**

September 5, 2019

Regina Gasco-Bentley, LTBB Tribal Chairperson
7500 Odawa Circle
Harbor Springs, MI 49740

Dear Chairperson Gasco-Bentley,

This letter is submitted in regard to LEG-257, the Gaming Authority Statute posted 081519.

This revision removes the requirement for the Gaming Authority Board member to be licensed.

The Gaming Regulatory Commission reviewed the Statute and determined that the Gaming Authority is required to be licensed as Primary. This determination is based on Gaming Authority duties and the National Indian Gaming Commission (NIGC) definition of "Primary Management Official".

Gaming Authority access to confidential and proprietary information alone would require the members be licensed as Key.

The Gaming Authority has the duty of hiring and firing the General Manager and their Board position responsibilities under their statute require they be licensed as Primary under NIGC and LTBB regulations.

Respectfully submitted,



Vince Cook
Regulatory Director
LTBB Gaming Regulatory Commission

WAGANAKISING ODAWAK STATUTE # 2019-_____
GAMING REGULATORY STATUTE

SECTION I. PURPOSE

The purpose of this Statute is for the Little Traverse Bay Bands of Odawa Indians, empowered by the Tribal Constitution, to enact this Statute to govern and regulate the operation of class II and/or class III gaming operations on the Tribe's Indian lands in order to promote economic development, self-sufficiency and sovereignty; to shield the operation of gaming from organized crime and other corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operator and players. This Statute rescinds and replaces the Gaming Regulatory Statute, Waganakising Odawak Statute 2011-005, Waganakising Odawak Statute 2005-06, and Waganakising Odawak Statute 2010-012.

SECTION II. APPLICABILITY

Unless specifically indicated otherwise, all provisions of this ordinance shall apply to class II and/or class III gaming on the Tribe's Indian lands.

SECTION III. 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) as currently codified at, 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.*, or as amended. 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.

A. "Gaming Authority" means the subordinate entity of the Tribe that reports to Tribal Council in accordance with Waganakising Odawak Statute 2018-016, or as amended, or any successor entity created by Tribal Statute to carry out non-regulatory aspects of the Tribe's gaming operation.

- B.** “Commission” means the Gaming Regulatory Commission established to by this statute.
- C.** “Commissioner” means a Little Traverse Bay Bands of Odawa Indians Gaming Regulatory Commissioner.
- D.** “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 Citizens, tribal employees, or attendees at a conference or training.
- E.** “Department” means the Gaming Regulatory Department.
- F.** “Director” means the Gaming Regulatory Department Director.
- G.** “Immediate Family Member” means family relations as defined in Waganakising Odawak Statute WOS 2006-007, Commissions, Boards and Committees Statute, or as amended.
- H.** “Facility License” means a separate license issued by the Department to each place, facility or location on Indian lands where the Tribe elects to allow class II or III gaming;
- I.** “Gaming Operation” means each economic entity that is licensed by the Department, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly; by a management contractor; or, under certain conditions, by another person or entity.
- J.** “Gaming” or “Gambling” means Class II or III gaming activity conducted by the Gaming Enterprise.
- K.** “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
- j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- k. Custodians of confidential or proprietary information or records

2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year.

3. If not otherwise included, the four most highly compensated persons in the gaming operation.

L. "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.
- 2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

M. "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.
 - b. To set up working policy for the gaming operation.
 - c. The chief financial officer or other person(s) who has financial management responsibility.
 - d. Any other person designated by the Gaming Regulatory Department

based on level of signing authority or job position responsibilities.

- N.** “Tribal Chair” and “Vice Chair” means the Executive created under Article VIII of the LTBB Constitution.
- O.** “Tribal Council” means the Legislative body of the Little Traverse Bay Bands of Odawa Indians (LTBB).
- P.** “Tribal Court” means the LTBB Court created under Article IX of the LTBB Constitution.
- Q.** “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.
- R.** “Tribal-State Compact” means an agreement between Little Traverse Bay Bands of Odawa Indians and the State of Michigan regarding class III gaming under federal regulations.
- S.** “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 are recognized as possessing powers of self-government.

SECTION IV. GAMING AUTHORIZED

The following terms shall have the same meaning and effect as those same terms as defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC’s regulations.

A. Class I gaming.

1. Social games played solely for prizes of minimal value; or
2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

B. Class II gaming.

1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:
 - a. Play for prizes with cards bearing numbers or other designations;
 - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Win the game by being the first person to cover a designated pattern on such cards;
2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
3. Non-banking card games that:
 - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
4. Card games played in the states of Michigan, North Dakota, South Dakota or Washington, if:
 - a. A tribe actually operates the same card games as played on or before May 1, 1988, as determined by the NIGC Chair; and
 - b. The pot and wager limits remain the same as on or before May 1, 1988, as determined by the NIGC Chair;
5. Individually owned class II gaming operations –

- a. That were operating on September 1, 1986;
- b. That meet the requirements of 25 U.S.C. § 2710(b)(4)(B);
- c. Where the nature and scope of the game remains as it was on October 17, 1988; and
- d. Where the ownership interest or interests are the same as on October 17, 1988.

C. Class III gaming. All forms of gaming that are not class I or class II gaming, including, but not limited to:

1. Any house banking game, including but not limited to –
 - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
 - b. Casino games such as roulette, craps, and keno;
2. Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or electromechanical facsimiles of any game of chance;
3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
4. Lotteries.

SECTION V. 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.

A. No person or entity, other than the Tribe, shall conduct gaming without obtaining a license from the Tribal Regulatory Department.

B. The Tribal Regulatory Department may issue a license for individually-owned gaming so long as:

1. The individually owned gaming operation is licensed and regulated pursuant to this Statute;
2. The income to the Tribe from an individually owned gaming operation is used only for the purposes listed in this Statute;
3. Not less than sixty (60) percent of the net revenues of the individually-owned gaming operation is income to the Tribe;
4. The owner of the individually owned gaming pays an annual assessment to NIGC;
5. The Tribal Gaming Department applies licensing standards that are at least as restrictive as those established by State law governing similar gaming;
6. The Tribal Gaming Department determines that the owner of the individually owned gaming would be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State.

SECTION VI. USE OF GAMING REVENUE

A. Net revenues from 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 Citizens.
3. to promote Tribal economic development.
4. to donate to charitable organizations.
5. to help fund operations of local government agencies.

SECTION VII. PER CAPITA PAYMENTS

A. Net revenues from any [class II and/or class III] gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if:

- 1.** The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by Section V of this Statute;
- 2.** The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections V(A)(1) and V(A)(3) of this Statute;
- 3.** The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and 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 of the minor or other legally incompetent person; and
- 4.** The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

SECTION VIII. GAMING REGULATORY COMMISSION

A. The Commission shall consist of at least three (3) but not more than five (5) Tribal Citizens. 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 Tribe recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. 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.

2. No Gaming Authority member may serve on the Commission.
3. No Tribal Citizen directly related to or living with any Gaming Authority member may serve on the Commission.
4. Members of the Commission and Gaming Authority 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.

C. 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 Citizens appointed by the Tribal Council and shall be licensed as primary management officials.
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.

D. **Removal.** Members of the Commission can only be removed in accordance with standards and procedures set out in the Waganakising Odawak Statute 2016-001 Removal of Commissioners Statute, or such successor statute as the Tribal Council may enact.

- E. 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.
- F. The Commission shall keep a written record of all its regularly scheduled, special, and emergency meetings, and licensing hearings and meetings.
- G. Hold hearings on patron and/or employee complaints, in compliance with procedures established in this Statute and other Tribal gaming regulations.
- H. Promulgate and issue regulations necessary to comply with the Tribal Minimum Internal Control Standards (TMICS) and the NIGC Minimum Internal Control Standards (MICS).
- I. Review and approve gaming operation policies and procedures for compliance with Tribal Minimum Internal Control Standards (TMICS).
- J. Promulgate and issue regulations on the levying of fees associated with gaming license applications.
- K. Promulgate and issue regulations on suspension or revocation of gaming licenses for violations of the gaming Statute, or any other Tribal, Federal, or State, if applicable, gaming regulations.
- L. Adopt a schedule of fines and/or forfeitures as a recommendation 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.
- M. All regulations promulgated under this Statute shall be submitted to Tribal Council for approval.

SECTION IX. GAMING REGULATORY DEPARTMENT

A. The Tribe hereby establishes a Gaming Regulatory Department as an Executive Department whose duty is to regulate tribal gaming operations. The purpose of the Department is to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Department will serve as the licensing authority for the gaming operation and individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Department will monitor compliance with the internal control standards for the gaming operation and track revenues. In order to carry out its regulatory duties, the Department shall have unrestricted access to all areas of the gaming operation and to all records. The Department shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

B. The Department shall:

1. Conduct or cause background investigations to be conducted on primary management officials, key employees, and gaming related vendors.
2. Review and approve all investigative work conducted.
3. Report results of background investigations to the National Indian Gaming Commission.
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 the Director 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.

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. Issue citations for violations of the gaming Statute, or any other Tribal, Federal, or State, if applicable, gaming regulations.

13. Perform such other duties the Department deems appropriate for the proper regulation of the gaming operation.

14. The Department 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.

C. The Department 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.

1. Information obtained during the course of an employee background investigation may be disclosed to members of management, human resource personnel or others employed by the gaming operation on a need-to-know basis for actions to be taken in their official capacity. This information must be public record and shall not include information from Federal Bureau of Investigation (FBI) records, Law Enforcement Information Network (LEIN) records, or disclose individuals interviewed during the background investigation.

2. 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 Department in the performance of their official duties to

the extent permitted under applicable law.

SECTION X. GAMING PROHIBITIONS

A. No Gaming Regulatory Department employee, Gaming Regulatory Commission member, or Gaming Authority member shall be permitted to participate as a player in any game operated within the Facility.

B. With Tribal Council approval the following may participate as a player in any game operation within the gaming facility: enterprise employees, members of Tribal Council, Tribal Chair, Vice-Chair and members of the Judiciary. If the player is licensed by the Department, then the license must be assessable for review upon request by the Department, management or security or other such designated individuals. Tribal Council may place limits or restrictions on the players by approved Regulations.

C. Gaming Regulatory employees shall be barred from participating as a player in any game operated within the facility for a period of one (1) year after their employment terminates unless waiver is approved by the Commission.

D. Unless a different age is set by State Compact, no individual under nineteen (19) years of age may play any game in the Enterprise, nor shall any such person be allowed to loiter or remain in the immediate area in which any such game is being played, provided that individual is not an employee of the enterprise.

E. No credit shall be extended by the Enterprise to any player. This prohibition shall not be construed, however, to prevent players or customers from utilizing bank cards, credit cards, and other forms of personal credit when the credit is guaranteed or extended by an independent financial institution.

SECTION XI. ETHICS

The Tribe recognizes that the duties of the Department and Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Department and Commission shall be held to high ethical standards and shall adhere to the Little Traverse Bay Bands of Odawa Indians Constitutionally Mandated Rules of Conduct for All Levels of Tribal Government that are approved by Tribal Council and any other subsequent Rules, as may apply.

SECTION XII. 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 MICS, found at 25 C.F.R. § 542.17.

- B. Employee, Primary Management Official, Tribal Council member, Tribal Chairperson, Vice-Chairperson, member of the Tribal Judiciary, member of the Gaming Authority or the Regulatory Commission, shall be authorized to receive complimentary items from the Tribe's gaming enterprise only if it is received as a member of the general public or as a Tribal Citizen. No gaming employee, Primary Management Official, Tribal Council member, Tribal Chairperson, Vice-Chairperson, or member of the Tribal Judiciary shall receive any items associated with promotions, incentives and awards related to gaming activity.

SECTION XIII. AUDIT

- A. Annual Audit. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. The Tribal Council shall appoint an independent auditor to conduct the annual financial statement audit and minimum internal control testing as required by the LTBB Gaming Regulatory Commission and, in addition to the NIGC, Tribal Council shall receive a copy of the annual audit.

- B. Internal Audit. The Department may employ personnel to conduct the compliance function (internal audit) or the Department 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, shall be specifically included within the scope of the audit that is described in subsection A. above, except contracts for professional legal, financial and accounting services.

SECTION XIV. ENVIRONMENT 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 Department to ensure compliance with non-gaming health and safety standards such as building codes, fire safety, etc.

SECTION XV. PATRON DISPUTE RESOLUTION

Patrons who have gaming related complaints against the gaming establishment, a gaming employee, or a management contractor may file a petition for relief with the Commission and the complaint shall be resolved in accordance with procedures adopted by the Commission.

SECTION XVI. LICENSE APPLICATION FORMS

A. The following notice shall be placed on the Department's license application form for a key employee or a primary management official before it is filled out by an applicant:

1. 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 granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the 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 by the Department or the NIGC 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 Department or the NIGC in connection with the issuance, denial, 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 Department being unable to license you for a primary management official or key employee position.

2. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

B. The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

1. A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

SECTION XVII. LICENSING OF EMPLOYEES

A. The Department shall ensure that the policies and procedures set out in this Statute are implemented with respect to key employees and primary management officials employed at any Class II and/or Class III gaming enterprise.

B. License Fees. The Department 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.

SECTION XVIII. BACKGROUND INVESTIGATIONS

A. The Department shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Department to make an eligibility determination under Section 20 of this ordinance.

B. The Department is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.

C. In conducting a background investigation, the Department shall keep confidential the identity of persons who provided information during the course of the investigation, i.e. former employers, personal references.

D. The Department 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. The Department shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Department or Tribal Law Enforcement. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NIGC to determine the applicant's criminal history, if any.

SECTION XIX. PROCEDURES FOR CONDUCTING A BACKGROUND CHECK ON APPLICANTS

A. The Department shall request from each primary management official and key employee all of the following information:

- 1.** Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
- 2.** Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
- 3.** The names and current addresses of at least three (3) personal references,

including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (A)(2) of this section;

4. Current business and residential telephone numbers, and all cell phone numbers;
5. A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application, and is not otherwise listed pursuant to paragraphs (A)(8) or (A)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

12. A photograph;
13. Any other information the Department deems relevant; and
14. Fingerprints obtained in accordance with procedures adopted by the Department.

B. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in this section shall be maintained.

SECTION XX. INVESTIGATIVE REPORTS

A. The Department shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

B. Investigative reports shall include all of the following information:

1. Steps taken in conducting the investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

C. Eligibility Determination

1. Before a license is issued to a primary management official or key employee, the Department shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations. This finding will also incorporate the requirements of WOS 2019-003, Protection of Employees from Supervisors that have Committed a Crime of Domestic Violence or Sexual Harassment Statute, or as amended.

2. If the Department, in applying the standards adopted in this Statute, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

3. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

4. The Department will not consider records expunged or sealed by a Court of law.

SECTION XXI. NOTICE OF RESULTS OF BACKGROUND INVESTIGATIONS

A. Before issuing a license to a primary management official or key employee, the Department shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.

B. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe.

C. The notice of results shall include the following information:

1. The applicant's name, date of birth and social security number;

2. The date on which the applicant began, or will begin, working as a primary management official or key employee;

3. A summary of the information presented in the investigative report, including:

a. licenses that have previously been denied;

b. gaming licenses that have been revoked, even if subsequently reinstated;

- c. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
- 4. A copy of the eligibility determination made in accordance with this Section.

SECTION XXII. GRANTING GAMING LICENSES

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Department.
- B. The Director is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. The Director may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by this Section.
- D. The Director shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- E. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after ninety (90) days of beginning work at the gaming operation.
- F. The Director must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
- G. The Director shall take the NIGC's objections into account when reconsidering a license application.

H. The Director will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

I. If the Director has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by this Statute.

SECTION XXIII. DENYING GAMING LICENSES

A. The Department shall not license a primary management official or key employee if an authorized Director determines, in applying the standards in Section XX. for making a license eligibility determination, that licensing the person:

1. Poses a threat to the public interest;
2. Poses a threat to the effective regulation of gaming; or
3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

B. When the Department does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued licenses after reconsideration, it shall:

1. Notify the NIGC; and
2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

SECTION XXIV. GAMING LICENSE SUSPENSIONS AND REVOCATIONS

A. If, after a license is issued to a primary management official or a key employee, the

Department receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Department shall immediately suspend the license and provide the licensee with written notice of the suspension and proposed revocation; and

B. If the licensee requests a hearing, the Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

C. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.

D. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

SECTION XXVV. RECORDS RETENTION

The Department and Commission shall retain, for no less than three (3) years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:

1. Application for licensing;
2. Investigative Reports; and
3. Eligibility Determinations

SECTION XVI. 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 Department in order to transact business with the gaming operation. Contracts for professional legal, financing and accounting services are excluded from this section.

B. Submission of a Vendor License Application. 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, and partners, non-institutional stockholders that either own ten percent (10%) or more of the stock or are the ten (10) largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

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, date of birth, addresses and telephone numbers, title, and percentage of ownership in the company, and all criminal convictions in the past 10 years

o. Any further information the Department deems relevant

2. The following statement shall be placed on the application form for a vendor and its principals: "Inclusion of false or misleading information in the vendor application, or any alteration of the vendor application form, may be grounds for denial or revocation of the vendor license."

D. Vendor Background Investigation

The Department 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 business references listed in the vendor application, and verify gaming licenses.
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 Department 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 Citizens 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.

SECTION XVII. APPELLATE REVIEW

Any Appeals of Regulatory decisions shall be decided by the Commission prior to being taken to the Tribal Court. This provision shall not apply to the suspension or revocation of Facility licenses.

SECTION XXVIII. ANNUAL FEES

A. National Indian Gaming Commission Fees

1. The LTBB Gaming Operation shall pay annual fees to the NIGC as established by the NIGC and published in the Federal Register.

2. The fee statement and fees shall be submitted to the NIGC no later than March 1st and August 1st of each calendar year.
3. The statement shall identify an individual or individuals to be contacted in the event that the NIGC needs further communication. Contact information shall be included.
4. The fees payable to the NIGC shall be determined in accordance with federal regulations.

SECTION XXIX. MINIMUM INTERNAL CONTROL STANDARDS

- A. 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 gaming operation no less stringent than those found in the federal regulations. The Tribe's TMICS, or as amended, shall be set out in separate regulations to be reviewed by the Commission and approved by the Tribal Council.
- B. Violations of LTBB Tribal Minimum Internal Control Standards shall be reported to gaming operation management.
- C. Gaming Operation Management shall be required to respond to TMICS violations stating corrective measures to be taken to avoid recurrence of the violation. Such management responses shall be included in the Final Internal Audit report that will be delivered to Tribal Chair, Tribal Council, LTBB Gaming Regulatory Commission, Gaming Authority and Casino Management.

SECTION XXX. LICENSE LOCATIONS

The Department shall issue a separate Facility license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this Statute. Any suspension or revocation of a facility license shall require a petition and hearing by Tribal Court

and the Facility license shall only be suspended or revoked by Court Order.

SECTION XXXI. AGENT FOR SERVICE OF PROCESS

The Little Traverse Bay Bands of Odawa Indians hereby designates LTBB Tribal Chair as agent for service of process, who may be contacted at:

**7500 Odawa Circle
Harbor Springs, MI 49740**

SECTION XXXII. 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.

SECTION XXXIII. REGULATIONS

Any regulations promulgated or required in accordance with this Statute shall be submitted to Tribal Council for approval.

SECTION XXXIV. 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.

SECTION XXXV. 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.



CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on August 22, 2019 at which a quorum was present, by a vote of 7 in favor, 0 opposed, 1 abstentions, and 1 absent as recorded by this roll call:


	In Favor	Opposed	Abstained	Absent
Frank Bernard	_____	_____	_____	X
David Harrington	_____	_____	X	_____
Dexter McNamara	X	_____	_____	_____
Emily Proctor	X	_____	_____	_____
Julie Shananaquet	X	_____	_____	_____
Leroy Shomin	X	_____	_____	_____
Marcella Reyes	X	_____	_____	_____
Tamara Kiogima	X	_____	_____	_____
Fred Harrington, Jr.	X	_____	_____	_____

Date: 08.22.19 
 Fred Harrington, Jr., Legislative Leader

Date: 8-22-19 
 Tamara Kiogima, Tribal Council Secretary

Received by the Executive Office on 8-23-19 by JLJ/k

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: 09.19.19 
 Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on _____ by _____