

# WAGANAKISING ODAWA



## TRIBAL CODE of LAW

### TITLE III. ELECTIONS

2024.2

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TABLE OF CONTENTS

<b>TITLE III. ELECTIONS .....</b>	<b>1</b>
<b>Chapter 1. Election Board.....</b>	<b>1</b>
<b>3.101 PURPOSE.....</b>	<b>1</b>
<b>3.102 AUTHORITY .....</b>	<b>1</b>
<b>3.103 COMPOSITION, APPOINTMENTS, OATH OF OFFICE, VACANCIES, AND REMOVAL OF ELECTION BOARD.....</b>	<b>2</b>
<b>3.104 OATH OF OFFICE .....</b>	<b>3</b>
<b>3.105 AUTHORITY TO REQUEST INFORMATION .....</b>	<b>4</b>
<b>3.106 FRIVOLOUS CLAIMS, FILINGS AND LAW SUITS .....</b>	<b>4</b>
<b>3.107 CIVIL AND CRIMINAL OFFENSES AND PENAL PROVISIONS .....</b>	<b>4</b>
<b>3.108 AMENDMENTS .....</b>	<b>6</b>
<b>3.109 SAVINGS CLAUSE.....</b>	<b>6</b>
<b>3.110 EFFECTIVE DATE.....</b>	<b>7</b>
<b>Chapter 2. Political Solicitation Prohibition Statute .....</b>	<b>8</b>
<b>3.201 PURPOSE.....</b>	<b>8</b>
<b>3.202 DEFINITIONS .....</b>	<b>8</b>
<b>3.203 SOLICITATION PROHIBITION .....</b>	<b>8</b>
<b>3.204 ENFORCEMENT .....</b>	<b>9</b>
<b>3.205 REGULATIONS.....</b>	<b>9</b>
<b>3.206 SEVERABILITY .....</b>	<b>10</b>
<b>3.207 EFFECTIVE DATE.....</b>	<b>10</b>

## **TITLE III. ELECTIONS**

### **Chapter 1. Election Board**

#### **3.101 PURPOSE**

The Election Board conducts all general and special elections and adopts rules and regulations governing elections. This Statute repeals and replaces Waganakising Odawak Statute 2010-019 and previous Statutes WOS 2004-06 and 2006-026 and any and all previous Statutes.

(Source: WOS 2012-020, November 15, 2012, Section I)

#### **3.102 AUTHORITY**

- A.** The Election Board is an independent entity created by the Constitution and shall be adequately funded to fulfill its purposes.
- B.** The Election Board shall have the authority to employ their own staff to fulfill their duties.
- C.** The Election Board shall prepare and present an annual budget directly to the Tribal Council for funding which will be based on the need to fulfill its duties.
- D.** The Election Board shall conduct all general and special elections.
- E.** The Election Board shall adopt rules and regulations governing elections. These rules may be amended as needed; however, no amendments to such rules and regulations can take effect while an Election is in progress. Such rules and regulations shall be posted on the Tribal website and within the Administrative/Governmental building.
- F.** The Election Board shall adopt rules and regulations governing Regular, Special and Emergency meetings, minutes and phone-polls. These rules may be amended as needed; however, no amendments to such rules and regulations can take effect while an Election is in

progress. Such rules and regulations shall be posted on the Tribal website and within the Administrative/ Governmental building.

(Source: WOS 2012-020, November 15, 2012, Section II)

### **3.103 COMPOSITION, APPOINTMENTS, OATH OF OFFICE, VACANCIES, AND REMOVAL OF ELECTION BOARD**

#### **A. Composition**

1. The Election Board shall be nominated by the Chair and appointed by Tribal Council and shall consist of five (5) enrolled Tribal Citizens, eighteen (18) years of age or older who meet the voting eligibility requirements.
2. Two or more members of the same immediate family, as defined in the Constitution, shall not serve on the same Election Board at the same time. Although not included in the constitutional definition of immediate family, Citizens related as son-in-law, daughter-in-law, and persons who reside within the same household of the member cannot serve on the same Election Board at the same time.
3. Election Board Officers - The Election Board shall organize itself with a Chairperson, Vice-Chairperson and a Secretary/Treasurer.
4. Election Board members cannot be candidates for any Tribal elected position while serving on the Election Board.

#### **B. Appointment and Terms**

1. The initial appointment of the Election Board will be for staggered terms consisting of two (2) two year terms and three (3) four year terms. The terms thereafter shall be for four (4) years.
2. There shall be no limit on reappointment.

3. Election Board members shall serve on no more than two (2) Tribal Boards or Commissions simultaneously.

4. Members will serve until their successors are appointed and sworn in.

**C. Oath of Office**

1. Election Board Members are to be sworn in under an oath of office prepared and administered by the Tribal Court within thirty (30) days of their appointment.

2. Election Board members shall be subject to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.

**D. Vacancies**

In the event a vacancy occurs on the Election Board by virtue of death, resignation, or removal, the Chair shall nominate and the Tribal Council shall appoint a Tribal Citizen who meets the eligibility requirements for the remainder of the unexpired term.

**E. Removal of Members of Election Board** Upon presentation of a petition signed by at least one hundred (100) members alleging neglect of duties or intentional wrongdoing, and a hearing where the accused is afforded proper due process, the Judiciary may remove Election Board members for good cause.

(Source: WOS 2012-020, November 15, 2012, Section III)

**3.104 OATH OF OFFICE**

At the first regularly scheduled Tribal Council meeting, at least thirty (30) days following the Election Board's certification of the election results, the Tribal Court shall conduct the swearing in ceremony for the newly elected Officials. Incoming elected Officials terms shall commence, and outgoing Council members' terms shall expire, upon such swearing in.

(Source: WOS 2012-020, November 15, 2012, Section IV)

### **3.105 AUTHORITY TO REQUEST INFORMATION**

The Election Board shall have the authority to request from the Tribal Enrollment Department a list of enrolled Tribal Citizens who have or will have attained the age of eighteen by the Election Date. The list of Tribal Citizens organized in alphabetical order or as nearly so as possible, must include their names, enrollment numbers and addresses as current at the time the list is being issued.

(Source: WOS 2012-020, November 15, 2012, Section V)

### **3.106 FRIVOLOUS CLAIMS, FILINGS AND LAW SUITS**

All claims, filings and law suits arising out of the Constitutional provisions regarding Election and Election Board, this statute, the Tribal Election Regulations or the Election Board Policies and Procedures, for which has been clearly and convincingly shown that have been prosecuted in bad faith for purposes of harassment only, and that there was no reasonable expectation of success on the part of the affirmatively claiming party, shall be liable for reasonable attorney fees incurred in the defense of said frivolous claim, filing or law suit.

(Source: 2012-020, November 15, 2012, Section VI)

### **3.107 CIVIL AND CRIMINAL OFFENSES AND PENAL PROVISIONS**

#### **A. Conflict of Interest**

An Election Board member shall recuse him or herself from any certification involving an immediate family member as defined in the Constitution. An Election Board member shall also recuse him or herself from any certification involving a son-in-law or daughter-in-law, or any members of the same household.

#### **B. Bribery of Electors**

It is unlawful to knowingly give, cause to be given, or promise to be given, any money to any person as reimbursement for money, or other thing of value, spent by such person in whole

or in part for a benefit at any Tribal election; provided, however, that it shall not be unlawful for any candidate personally or through an agent to provide transportation of any voter to the polls.

**C. Coercion of Elector**

It is unlawful to make use of force, or to request another person to use or threaten force, in order to influence any person's vote in any election, or to prevent any person from voting in any election.

**D. Intimidation of Tribal Citizen Employees by Employer**

1. It is unlawful for any employer to threaten a Tribal Citizen employee with dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable working conditions, for the purpose of influencing such employee to vote or refrain from voting, or to vote for any particular person in any Tribal Election.

2. As used in this section the term "employer" means any entities, or natural persons and their agents, employing Tribal Citizens, including contractual relationships, over which the Tribe may properly exercise criminal jurisdiction.

**E. Interference With or Corruption of Election Officer**

It is unlawful for any persons to offer or give a bribe, money or any other unduly benefit, to any member of the Election Board, or to influence or attempt to influence any of said officers in the performance of their official duties by means of force, or threats or promise of any nature.

**F. Violation of Duty by Election Board**

It is unlawful for any member of the Election Board to knowingly and willfully fail or neglect any duty under any part of this statute in the manner prescribed by this statute, or to accept any money or other thing of value from any candidate or from anyone acting or purporting to act on behalf of any candidate. Members of the Election Board shall not endorse any candidate while performing duties under this statute.

**G. Tampering With Election Ballots**

It is unlawful for persons to tamper with election ballots, tallies, voting materials, or any compilation summaries, or totals of voting results by destroying, defacing, writing on, changing marks or totals, on any such ballots or voting materials or results.

**H. Use of Tribal Resources**

It is unlawful for any Tribal employee over whom the Tribe may properly exercise criminal jurisdiction to interfere with any Tribal Election campaign by using Tribal resources to actively and overtly encourage and support any candidate, by allowing a candidate access to confidential information, or by providing any candidate any service or thing of value.

**I. Penalties**

A person convicted of an offense under this section may be sentenced to a jail term not to exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars (\$5,000.00) or to both.

(Source: WOS 2012-020, November 15, 2012, Section VII)

**3.108 AMENDMENTS**

**A.** The Election Board may make recommendations to the Tribal Council regarding future amendments to this Statute.

**B.** No amendments to this Statute can take effect while an election is in progress.

(Source: WOS 2012-020, November 15, 2012, Section VIII)

**3.109 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, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection



or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

(Source: WOS 2012-020, November 15, 2012, Section IX)

### **3.110 EFFECTIVE DATE**

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2012-020, November 15, 2012, Section X)

## **Chapter 2. Political Solicitation Prohibition Statute**

### **3.201 PURPOSE**

This Statute is intended to protect the Tribe including governmental operations, enterprises, employees and Tribal Citizens from individuals attempting to solicit for political purposes.

(Source: WOS 2011-001, February 8, 2011, Section I)

### **3.202 DEFINITIONS**

**A.** “Solicitation” means to endeavor to obtain an object, or bring about an event; to woo; to court; to persuade or incite one to commit some act; to make a petition; to disturb or trouble; to harass; for political purposes.

**B.** “Tribal property” means property either owned or leased by the Tribe or property that is held in trust for the benefit of the Tribe.

**C.** “LTBB or Tribe” means the Little Traverse Bay Bands of Odawa Indians.

**D.** “Political Purposes” means campaigns, initiatives, referendums, recall, petitions or other election related activities.

(Source: WOS 2011-001, February 8, 2011, Section II)

### **3.203 SOLICITATION PROHIBITION**

**A.** Soliciting by means of the display or distribution of written or symbolic messages, audio or other communication is prohibited where official Tribal business is transacted or conducted.

**B.** No person shall solicit any LTBB employee while the employee is performing their official duties.

**C.** Soliciting is prohibited in all Tribal buildings, excluding Tribal housing property that is

either leased or owned by an individual.

**D.** No person may solicit, including distribute literature of written or printed matter of any kind; wear campaign buttons, signs, pins, stickers, T-shirts, etc.; circulate petitions; or perform similar activities, within 150 feet of the building during which a poll or election is taking place.

**E.** This Statute shall not prohibit the activity of the candidates' forum sponsored by the election board.

(Source: WOS 2011-001, February 8, 2011, Section III)

**F.** This Statute shall not prohibit the activities of an Annual Meeting of the Tribal Membership or Special Meetings of the Tribal Membership, as referred to within the Constitution Article I, in accordance to the rule of conduct for membership meetings.

(Source: WOS 2011-010, May 3, 2011, Amendment)

### **3.204 ENFORCEMENT**

A law officer has the authority to issue a notice of violation of trespass citation when:

1. The violation is committed in the officer's presence;
2. An officer investigating the violation has reasonable cause to believe that the alleged perpetrator involved has committed a violation.

(Source: WOS 2011-001, February 8, 2011, Section IV)

### **3.205 REGULATIONS**

Any regulations promulgated or required in accordance with this Statute shall follow the Administrative Procedures Act and be submitted to Tribal Council for approval.

(Source: WOS 2011-001, February 8, 2011, Section V)

### **3.206 SEVERABILITY**

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2011-001, February 8, 2011, Section VI)

### **3.207 EFFECTIVE DATE**

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2011-001, February 8, 2011, Section VIII)