

# WAGANAKISING ODAWA



## TRIBAL CODE of LAW

### TITLE VII. ECONOMIC DEVELOPMENT

2024.2

WAGANAKISING ODAWA TRIBAL CODE of LAW

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## **TITLE VII. ECONOMIC DEVELOPMENT**

### **Chapter 1. A Plan for the Use of the Little Traverse Bay Bands of Odawa Indians' Judgment Fund Distribution**

#### **7.101 PURPOSE**

This Plan has been developed as a result of the Indian Claims commission dockets numbered 18-E, 58, 364 and the passage of Public Law 105-143, signed into law on December 15, 1997, and provides for the disbursal of judgment funds to the Little Traverse Bay Bands of Odawa Indians of Michigan. Pursuant to this law, the Little Traverse Bay Bands of Odawa Indians must submit a plan for the use of the funds to the Secretary of Interior. The Secretary shall review the plan and discuss any problems with the Tribe. After this review, the plan shall be submitted to Congress prior to the distribution of any of these funds to the Tribe.

The Plan was developed by the Tribe to use monies wisely for the Tribe's current and future well being, and to preserve its culture and history. This plan also meets all of the criteria for the Secretary and Congressional approval, including:

- A.** The needs and desires of any groups or individuals who are in a minority position, but who are also entitled to receive such funds, have been fully ascertained and considered;
- B.** The interests of minors and other legally incompetent persons who are entitled to receive any portion of such funds; and
- C.** Any provision, including enrollment provisions, of the constitution, bylaws, rules, and procedures of such tribe which may affect the distribution or other use of such funds are in full accord with the principles of fairness and equity.

(Source: 1998007, March 13, 1998, Section I)

#### **7.102 SOVEREIGN IMMUNITY**

Nothing in this plan shall provide, or be interpreted to provide, a waiver of the sovereign immunity from suit of the Little Traverse Bay Bands of Odawa Indians or any of its governmental officers and/or agents.

Nothing in this plan shall create a duty of financial obligation on the part of the Little Traverse Bay Bands of Odawa Indians or any of its officers and/or agents to provide judgment fund distribution shares to an individual who alleges that he/she did not receive a per capita distribution share; provided, however, that the Little Traverse Bay Bands of Odawa Indians must show:

**A.** The individual's name does not appear on any of the rolls authorized under the Tribal enrollment requirements and time requirements of this plan; or

**B.** The individual's name: (A) appeared on one of the rolls authorized under Tribal enrollment requirements and time requirements of this plan; and, (B) a copy of the per capita share documentation is returned by the Tribal Administration as proof of distribution to the last known address of the individual entitled to a per capita share.

(Source: 1998007, March 13, 1998, Section II)

### **7.103 DESCRIPTION OF TRUST FUNDS**

**A. Land Claims Distribution Trust Fund.** The share of the Little Traverse Bay Bands of Odawa Indians of Michigan (hereafter in this section referred to as the "Bands"), as determined pursuant to subsections (a)(4) and (b)(4) of section 104 of Public Law 105-143, shall be deposited by the Secretary in a trust fund to be established by the Tribal Council of the Bands to be known as the "Land Claims Distribution Trust Fund" (hereafter in this section referred to as the "Trust Fund").

The principal of the Trust Fund shall consist of:

**1.** the funds deposited into the Trust Fund by the Secretary pursuant to this subsection;

2. such annual earnings of the Trust Fund which shall be retained, and added to the principal;
3. such other funds as may be added to the Trust Fund by action of the Tribal Council of the Bands.

**B. Management of the Trust Fund.** The Tribal Council of the Little Traverse Bay Bands of Odawa Indians will enact a statute creating a Trust Fund Board.

1. The Trust Fund Board (hereafter in this section referred to as the “Board”) will be appointed by Tribal Council in accordance with the procedures established in the statute. The Board shall be the trustee of the Trust Fund and shall administer the Fund in accordance with this section. In carrying out this responsibility, the Board may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Fund and charged against the earnings of the fiscal year in which the payment becomes due.
2. The Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant that shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Bands.
3. The Board will create Share Certificates. The face value of each Share Certificate shall be calculated by the following two steps:
  - a. By dividing 80 % of the total dollar amount of the distribution from the United States on the date of such distribution by the number of Tribal members who are eligible to participate in the distribution under section 3(g) [WOTC 7.103(G)] of this Plan, and
  - b. This amount will then be divided by two to determine the amount of each

Share Certificate. The estimated value of each Share Certificate is \$2,000 but the exact amount will depend on the exact amount of the distribution and number of members eligible to participate in the distribution. Each eligible member will receive two Share Certificates, which added together will be worth approximately \$4,000. Each eligible member will have the option of immediately redeeming one or both of their Share Certificates, or leaving one or both of their Share Certificates in the Trust Fund. Share Certificates are redeemable at no more than face value unless they are left in the Trust Fund for ten years or until the Trust Fund reaches the value of the total amount of the original distribution from the United States, at which point each unredeemed Share Certificate will be worth \$500 more than its original face value.

**C. Minor, Legal Incompetent and Incarcerated Person’s Trust Fund.**

1. Tribal Council shall establish a separate trust fund with segregated amounts equal to each minor, incarcerated member, or incompetent’s share. The investment policy of this trust will preserve the trust corpus while obtaining the highest interest rates current money markets can safely provide. Maturity dates of investments cannot exceed the period of the trust and only the following types of investment shall be made: United States Treasury bills; Bankers’ acceptance, provided the assets of the issuing bank exceed \$1 billion or the issuing bank pledges full collateral; Certificates of deposit, provided the assets for the issuing bank exceed \$1 billion or the issuing bank pledges full collateral; Commercial paper, provided it is rated prime-2 by Moody’s or A-2 by Standard and Poor’s or is an obligation of a company with outstanding unsecured debt rated Aa by Standard and Poor’s.
2. Minors who will have reached the age of 18 years within six months after the establishment of the Minor, Incarcerated Members and Incompetents Trust shall have their funds retained at interest in individual Indian money accounts and paid to them upon attaining their majority.
3. Upon reaching 18 years of age minor beneficiaries of the trust may make application to the Board to have their share plus interest transferred to them.

4. Release of funds regarding legal incompetents---Upon the petition of the legal guardian of the beneficiary, trust assets shall be distributed to the beneficiary as deemed appropriate by Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

5. Incompetent qualified Tribal member---To be deemed incompetent under this Plan, a qualified tribal member must be declared incompetent by a court of competent jurisdiction prior to any disbursement of monies to any individuals. His/her guardian must inform the Board, with sufficient written evidence, that he/she is the incompetent's legal guardian along with the guardian and incompetent's current address(es) prior to the aforementioned disbursement. If the Board does not receive such notification, then the Board may release his/her share to the individual at his/her last known address and neither the Board nor Tribe will bear any further responsibility for the individual's funds.

6. Incarcerated qualified Tribal member---To place an incarcerated member's share in trust under section 3 (c)(1) [WOTC 7.103(C)(1)] the Board must have actual knowledge of the individual's incarceration. Incarcerated individuals should inform the Board in writing of their incarceration before any distribution of monies under this plan. If the Board does not have actual knowledge of an individual's incarceration, then the Board may release his/her share to the individual at his/her last known address and neither the Board nor Tribe will bear any further responsibility for the individual's funds, including subsequent recoupment or attachment of the individual's share by any governmental entity or creditor. The Board will disburse the individual's share from the trust account to the individual upon his/her release from incarceration. Prior to release from incarceration, the individual's share can only be disbursed by order of the Tribal Court. The Tribal Court may issue such order, in its discretion, upon petition by the incarcerated member through a guardian or Power of Attorney.

7. In the event that a minor, incompetent or incarcerated person dies while his/her money is in trust, that money shall be distributed to the member's heirs at law.

**D. Land Claims Distribution Trust Fund Interest Distribution.**

1. Except for the administration costs allowed under Section 3 (b)(1) [WOTC 7.103(B)(1)], interest earnings of the Trust Fund investment shall be utilized only as outlined in this subsection (D) of this plan.

2. The earnings of the Trust Fund shall be utilized to increase the principle until it reaches the amount of the original distribution to the tribe from the United States, plus an amount adequate to fund the redemption of all outstanding shares at that time, pursuant to this subsection. The Board shall have the authority to invest the principal of the Trust Fund on market risk principles that will ensure adequate increases in the principle, while at the same time protecting the principle.

**E. New Trust Fund.**

1. Upon the accumulation of the original principle pursuant to subsection (D)[WOTC 7.103(D)] , the Land Claims Distribution Trust Fund will become the Odawa Perpetuation Trust Fund, to be managed by the Trust Fund Board. Not more than 85% of the interest from the investment of the Trust Fund shall be distributed according to the specific formula described herein, while no more than 5% of the interest each year shall be spent on administration of the Trust Fund, and at least 10% of the interest each year shall be re-invested in the Trust Fund.

2. Children born to members after the date of Secretarial approval of this plan who are themselves enrolled members in the Bands shall receive a one time per capita payment of an amount equal to the originally distributed two shares, upon reaching the age of eighteen.

3. Of the funds remaining, 40% of the interest each year shall be spent on programs designed to benefit Elders, 20% of the interest each year shall be spent on programs designed to benefit Youth, 20% of the interest each year shall spent on programs for general tribal benefit, and 20% shall be spent on land acquisition or defense of treaty rights or both.

4. The Odawa Perpetuation Trust Fund shall be audited at least once during each

fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Bands.

**F. No Secretarial Responsibilities for Trust Fund.**

The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Land Claims Distribution Trust Fund or the Odawa Perpetuation Trust Fund.

**G. General Provisions.**

1. In the event that a tribal member eligible for a payment under this section shall die after preparation of the distribution roll, but prior to the distribution date, such payment shall be paid to the estate of such member.

2. To receive a per capita share, persons must be enrolled members of the Bands by midnight at the end of the date of approval of this plan by the Secretary. In addition, the estate of any deceased member who was living and enrolled on the date of enactment of the Michigan Indian Land Claims Settlement Act (Public Law 105-143), December 15, 1997, and the estate of any deceased member enrolled between December 15, 1997 and midnight at the end of the date of approval of this plan by the Secretary, shall also receive per capita shares.

(Source: 1998007, March 13, 1998, Section III, as amended by WOS 1998008, April 19, 1998; WOS 1998010, July 12, 1998; and WOS 1998011, September 13, 1998)

**Chapter 1a. Non-Attachment of Judgment Fund Per Capita Payments**

**7.1a01 SHORT TITLE**

This Statute may be cited as the “Non-Attachment of Judgement Funds Per Capita Payments Act.”

(Source: WOS 1999003, May 2, 1999, Section I)

### **7.1a02 NON-ATTACHMENT OF JUDGMENT FUND PER CAPITA PAYMENTS**

None of the funds which are distributed per capita at any time to Tribal members through redemption of share certificates or otherwise pursuant to the Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgment Fund Distribution, approved by the Secretary of the Interior on December 16, 1998, shall be subject to attachment to satisfy any lien, judgment or any other debt.

(Source: WOS 1999003, May 2, 1999, Section II)

## **Chapter 1b. Distribution of Judgment Funds to Estates**

### **7.1b01 PURPOSE**

Under A Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgement Fund Distribution (Plan), the estates of certain deceased Tribal members shall receive payments. This Statute describes how such payment shall be made to such estates.

(Source: WOS 1999006, May 23, 1999, Section I)

### **7.1b02 DISTRIBUTION**

**A.** In the event that a Tribal member who is eligible to receive a payment under the Plan should die before the funds are distributed, that individual's payment shall be distributed to his/her heirs at law. The Trust Fund Board may request a copy of the individual's death certificate or other proof of the date of death to verify the individual's eligibility for his/her shares.

**B.** If such individual had a will at the time of his/her death, such individual's heirs and the share each heir is entitled to, shall be determined under that will.



C. If no will was present at the time of his/her death, the shares shall be distributed to any surviving spouse, or, in the absence of a surviving spouse, shall be distributed equally to any surviving children, or, in the absence of any surviving children, shall be distributed to surviving parents, or, in the absence of surviving spouse, children, or parents, in equal shares to surviving siblings, or, in the absence of surviving spouse, children, parents, or siblings, shall revert to the Tribe. In all cases, an individual's heirs shall be determined by a court of competent jurisdiction.

(Source: WOS 1999006, May 23, 1999, Section II)

## **Chapter 2. Trust Fund Board**

### **7.201 PURPOSE AND TITLE**

The “Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgment Fund Distribution” mandates the creation of the Trust Fund Board to maintain and manage the Trust Funds created under the Plan, and issue the Share Certificates described in the Plan. This Statute creates the Board and defines its composition, terms, duties and functions. This Statute may be cited as the “Trust Fund Board Act.” This Statute repeals and replaces WOS 2008-008, 1998013, 1999011, and all other amendments.

(Source: WOS 2017-004, August 25, 2017, Section I)

### **7.202 DEFINITIONS**

- A.** “Board” means the Trust Fund Board created under this Statute.
- B.** “Plan” means the Plan for the Use of the Little Traverse Bay Bands of Odawa Indians Judgment Fund Distribution, being Waganakising Statute 1998007, as amended.
- C.** “Secretary” means the Secretary of the United States Department of the Interior.
- D.** “Tribal Government Trust Fund Expendable” means a Tribal trust fund to be administered by the Board, from which principal may be spent, created exclusively from funds separate and apart from those received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143.
- E.** “Tribal Government Trust Fund Non-expendable” means a Tribal trust fund to be administered by the Board, from which principal may not be spent, created exclusively from funds separate and apart from those received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143.

**F.** “Trust Funds” means the Land Claims Distribution Trust Fund and the Minor, Legally Incompetent and Incarcerated Person’s Trust Fund, and their successor funds created under the Plan. Initially, the Minor Legally Incompetent and Incarcerated Person’s Trust Fund will consist of nineteen (19) segregated accounts, one of which will be closed annually as provided for in this Statute.

(Source: WOS 2017-004, August 25, 2017, Section II)

### **7.203 SUSPENSION OF TRUST FUND BOARD**

**A.** In 1998, the Trust Fund Board set up the Trust Funds to consist of nineteen (19) segregated accounts for minors and incarcerated persons. Each year the Board closed one of the segregated accounts and distributed the funds. Since 1998, all of the segregated accounts have been closed and any remaining amounts were transferred to an interest-bearing account.

**B.** The Tribal Council hereby suspends the duties of the Trust Fund Board, and transfers any remaining administrative duties and/or functions to the Little Traverse Bay Bands of Odawa Indians Accounting Department.

**C.** When the Trust Fund reaches the original principal of \$14,946,239.18, the amount received by the Tribe from the United States government, pursuant to Michigan Indian Land Claims distribution, the Trust Fund Board will resume its duties.

(Source: WOS 2017-004, August 25, 2017, Section III)

### **7.204 DUTIES OF THE TRUST FUND BOARD**

The Trust Fund Board shall have the following powers, duties and functions:

**A.** The Board shall devise and draft rules and regulations governing the Board, including, but not limited to, investment, certificate creations, bearer responsibility, redemption and disbursement. The Board shall submit these drafts and any subsequent amendments to the Tribal Council for review and approval.

**B.** The Board shall administer the Trust Funds created under the Plan, which shall consist solely of funds distributed to the Tribe pursuant to the Michigan Indian Land Claims Settlement Act, Public Law 105-143 and the Plan prepared and approved under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. Sec. 1403(b)) and interest and other investment income earned thereon. The Trust Funds shall be audited at least once during each calendar year by an independent certified public accountant that shall prepare a report on the results of such audit. The full tribal council shall be reasonably available for inspection by Citizens of LTBB, and a financial statement shall be distributed annually to all head of household addresses by the most efficient means. Payment for audit services shall be made from the current income accounts of the Trust Funds and charged against the earnings of the fiscal year in which the payment becomes due. Provided, that any contracts for professional services shall provide that payment shall only be made out of income from the Trust Funds, and not from principal.

**C.** The Board may retain or hire a professional trust manager or company and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Funds and charged against the earnings of the fiscal year in which the payment becomes due. Provided, that any contracts for professional services shall provide that payment shall only be made out of income from the Trust Funds, and not from principal. The Trust Fund Board shall obtain written qualifications of the potential trust fund manager or company before retention. The Trust Fund Board shall conduct such research and require such background checks as it deems necessary to assess the qualifications and suitability of the potential trust fund manager or company.

**D. Investment Strategy.**

1. The Trust Fund Board shall develop an overall prudent investment policy to provide for consistent long-term growth of capital without undue exposure to risk.

2. Allowable funds must be legal investments which may include, but not be limited to:

a. Bonds, bills, or notes of the United States; obligations, the principal and interest of which are fully guaranteed by the United States, or obligations of States or

Tribes.

**b.** Certificates of deposit issued by a tribal, state, or national bank organized and authorized to operate as a bank.

**c.** Commercial paper rated prime at the time of purchase.

**d.** Publicly traded stocks and or bonds as well as other federally regulated marketable securities.

**3.** The Trust Fund Board is authorized to designate depositories for the Trust Funds and any successor funds and to determine that the funds are invested appropriately.

**4.** The Trust Fund Board is prohibited from using or allowing the Trust Funds and their successor fund investments to be used as collateral or guaranty against any form of debt secured in the name of the Tribe or Tribal entities. Furthermore, the Tribal Council or any Tribal governmental entity is prohibited from using the Trust Funds and their successor fund investments as collateral or guaranty against any form of debt secured in the name of the Tribe or Tribal entities.

**5.** No person or entity can borrow funds from the Trust Funds and their successor fund investments, be it the Trust Fund Board, other Tribal entity, or a non-Tribal entity.

**E. Initial Tribal Investment.** The initial Tribal investment will consist of twenty per cent (20%) of the total amount of the distribution from the Federal Government. Up to one hundred thousand dollars (\$100,000.00) of this amount is authorized to be spent to pay costs associated with the initial Share Certificate issuance and redemption for a one year period. After the first year, all costs of maintaining and redeeming Share Certificates shall be considered costs charged against the earning of the Trust Funds.

**F. Share Certificates.**

**1.** The Board will create Share Certificates. The face value of each Share Certificate shall

be calculated by the following two steps:

- a.** By dividing 80% of the total dollar amount of the distribution from the United States on the date of such distribution by the number of Tribal members who are eligible to participate in the distribution under section 3(g) of the Plan, and
  - b.** This amount will then be divided by two to determine the amount of each Share Certificate. The estimated value of each Share Certificate is \$2,000 but the exact amount will depend on the exact amount of the distribution and number of members eligible to participate in the distribution. Each eligible member will receive two Share Certificates, which added together will be worth approximately \$4,000.
- 2.** Each eligible member will have the option of immediately redeeming one or both of their Share Certificates, or leaving one or both of their Share Certificates in the Trust Fund. Share Certificates are redeemable at no more than face value unless they are left in the Trust Fund for ten years or until the Trust Fund reaches the value of the total amount of the original distribution from the United States, at which point each unredeemed Share Certificate will be worth \$500 more than its original face value.
- 3.** The Board will take all necessary technological and other measures to ensure the integrity of the Share Certificates so they cannot be duplicated, copied, altered, or forged.

**G. Minor and Incarcerated Person’s Trust Fund**

- 1.** The Board shall establish a separate Trust Fund with segregated amounts equal to each minor and incarcerated share. The following types of investment are permitted: Bonds, Bills or notes of the United States, Bankers acceptance, Commercial Paper that is rated prime at the time of purchase, Certificates of Deposit that are issued by a bank with assets greater than one billion dollars.
- 2.** Each year one of the 19 segregated accounts of the Minor and Incarcerated Trust Fund shall be closed. This amount shall be transferred to an interest bearing checking account.

3. Starting January 1, 2002, eligible recipients who turn eighteen may redeem their share certificates based on the face value of the share certificates plus interest accrued on their share until the date of redemption or until December 31<sup>st</sup> of the year they reach their 18<sup>th</sup> birthday. If the shares are not redeemed then the principal and interest will be deposited into the Land Claims Distribution Trust Fund where it shall be paid out in accordance with Section IV(F)(2) of this Statute.
4. Starting January 1, 2002, eligible recipients who are released from incarceration may redeem their share certificates based on the face value of the share certificates plus interest accruing until the date of redemption or until December 31<sup>st</sup> of the year that they are released from incarceration. If the shares are not redeemed then the principal and interest will be deposited into the Land Claims Distribution Trust Fund where it shall be paid in accordance with Section IV(F)(2) of this Statute.
5. It is the recipient's responsibility to notify the Trust Fund Board of this election by the redemption date or no later than December 31<sup>st</sup> of the year of eligibility.

#### **H. New Trust Fund**

Upon the accumulation of the original principal received by the Tribe from the United States government pursuant to Michigan Indian Land Claims distribution in the amount of \$14,946,239.18, the following shall occur:

1. The Land Claims Distribution Fund shall become the Odawa Perpetuation Fund, to be managed by the Board. Not more than 85% of the interest from the investment of the Trust Fund shall be distributed according to the specific formula described herein, while no more than 5% of the interest each year shall be spent on the administration of the Trust Fund. At least 10% of the interest shall be re-invested in the Trust Fund.
2. Children born to members after the date of Secretarial approval of the Plan who are themselves enrolled members in the Tribe shall receive a one time per capita

payment of the amount equal to the original distributed two shares upon reaching the age of eighteen. Due to the effects of inflation, the Board may request that the Tribal Council increase this amount.

## **I. No Secretarial Responsibility for Trust Fund**

The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Lands Claims Distribution Trust Fund of the Odawa Perpetuation Fund.

(Source: WOS 2017-004, August 25, 2017, Section IV)

### **7.205 ADDITIONAL TRUST FUNDS**

**Tribal Government Trust Fund.** From time to time the Board may administer additional trust funds, Non-Expendable and Expendable, wherein the Tribal Council has allocated the principal that may come from Tribal gaming and other economic enterprises, grants, donations and bequests. No portion of the principal of these funds shall ever be derived from monies received by the Tribe under the Michigan Indian Lands Claims Settlement Act, Public Law 105-143, or any income generated there from. The Trust Fund Board or its financial advisor shall consult with the Tribal Council to determine the amounts to be invested, as determined by the Tribal Council, in each of the Tribal Government Trust Funds. The investment strategy shall be the same as set out in Section IV(d).

- 1. Tribal Government Trust Fund Non-expendable.** Each year up to 5% of the interest may be spent on administration of the Fund. At least 10% of the interest shall be re-invested.
- 2. Tribal Government Trust Fund Expendable.** Each year up to 5% of the interest may be spent on administration of the Fund. Any interest not distributed shall be re-invested in the Fund.
- 3.** The remaining interest from both funds shall be distributed as follows:



- a. Up to 50% may be spent on programs for the general Tribal benefit, including land acquisition or defense of treaty rights.
- b. Up to 50% may be distributed through in house grants for the benefit of elders and youth programs. In the event that funding shortages threaten basic government operation and services, the allowable expenditures may first be used to cover such shortfalls.

(Source: WOS 2017-004, August 25, 2017, Section V)

## **7.206 MEETINGS, QUORUM, VOTING AND CONFLICT OF INTEREST**

**A. Meetings.** The Board shall meet at least quarterly and as often as necessary to properly carry out its duties and functions. All Board meetings shall be open to the Tribal membership and any other persons that the Tribal Council may designate to attend.

**B. Voting and Quorum.** Actions of the Board shall be decided by a majority vote of those present at the meeting. The Chairperson is entitled to vote on all matters before the Board. A quorum shall consist of three (3) members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Board meeting.

**C. Conflict of Interest.** Board members shall not participate in any decisions in which they have a direct financial interest, other than interests that they share in common with the Tribal membership.

**D. Bonding.** The Trust Fund Board shall be bonded and carry errors and omissions insurance in amounts adequate to safeguard the financial interests of LTBB and its members in the Trust Funds and their earnings through the insurance policy carried by the tribe. Additionally, the Trust Fund Board members shall be bonded up to \$100,000 either by a rider endorsement to the tribe's policy or a separate bond policy through an independent insurance agency of the Board's choice. The costs of obtaining such bonds and/or insurance shall be considered costs charged

against the earnings of the Trust Funds.

(Source: WOS 2017-004, August 25, 2017, Section V)

#### **7.207 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 or governing the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, 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 2017-004, August 25, 2017, Section VII)

#### **7.208 EFFECTIVE DATE**

Effective upon signature of the Executive or 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 2017-004, August 25, 2017, Section VIII)

### **Chapter 3. Repeal of Economic Development Commission**

#### **7.301 FINDINGS and REPEALED**

The duties of the Commission are no longer applicable to the current organization of the Little Traverse Bay Bands of Odawa Indians tribal government and WOS 2009-023, Economic Development Commission is hereby repealed in its entirety.

(Source: WOS 2014-015 Repealed 2009-023, November 6, 2014, Section I)

#### **7.302 EFFECTIVE DATE**

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2014-015 Repealed 2009-023, November 6, 2014, Section II)

## Chapter 4. Gaming Regulatory Statute

*[The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. requires approval of tribal gaming ordinances by the National Indian Gaming Commission. The following Waganakising Odawak Statute 2011-005, enacted February 26, 2011, was approved by the NIGC on March 28, 2011]*

### 7.401 PURPOSE

The purpose of this Statute is to authorize the regulating of the terms and conditions under which Class I, II, and III gaming may be conducted on the lands of the Tribe. This Statute rescinds and replaces the Gaming Regulatory Statute, Waganakising Odawak Statue 2005-06, and Waganakising Odawak Statue 2010-012.

(Source: WOS 2011-005, February 26, 2011, Section I)

### 7.402 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. Additionally:

- A. “Board of Directors” means the Tribal Gaming Board of Directors created under Waganakising Odawak Statue 2009-012 or as amended, or any successor entity created by Tribal Statue to carry out non-regulatory aspects of the Tribe’s gaming operation.
- B. “Commission” means the Gaming Regulatory Commission which is comprised of three to five appointed officials, assisted by regulatory staff, to fulfill the duties required for regulation of the tribal gaming operations.
- C. “Commissioner” means a Little Traverse Bay Bands of Odawa Indians Tribal Gaming Regulatory Commissioner.

**D.** “Compact” means a Tribal-State Compact concerning class III gaming under federal regulations.

**E.** “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. .

**F.** “Directly related to” means immediate family relations as defined in the Tribe’s nepotism statute, Waganakising Odawak Statute 2002-05, WOTC Title XIV, Section 6.414 as amended.

**G.** “Enterprise” or “Gaming Operations” means the Odawa Casino Resort and its ancillary enterprises and activities, and other tribally owned enterprises or businesses related to gaming.

**H.** “Gaming” or “Gambling” means Class II or III gaming activity conducted by the Gaming Enterprise.

**I.** “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.
- J.** “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.
- K.** “Non key employee” means any employee of the gaming operation that is not a key employee or primary management official.
- L.** “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 Commission based on level of signing authority or job position responsibilities.

**M.** “Tribal Chair” and “Vice Chair” means the Executive created under Article VIII of the LTBB Constitution.

**N.** “Tribal Council” means the Legislative body of the Little Traverse Bay Bands of Odawa Indians (LTBB).

**O.** “Tribal Court” means the LTBB Court created under Article IX of the LTBB Constitution.

**P.** “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.

**Q.** “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.

(Source: WOS 2011-005, February 26, 2011, Section II)

## **7.403 GAMING AUTHORIZED**

**A. Class I Gaming** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations. Class I gaming, or a raffle authorized by the Tribe or State, is regulated by the Commission only when it occurs within Class II or Class III gaming facilities of the Tribe, including connected amenities, such as hotels, restaurants and parking lots at such site. Class I gaming that occurs away from such facilities is not regulated by the Commission.

**B. Class II Gaming** is hereby authorized and defined in the Indian Gaming Regulatory Act, ("IGRA") and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC") that now or hereafter may be in effect.

**C. Class III Gaming** is hereby authorized and defined in IGRA and by regulations promulgated by the NIGC that now or hereafter may be in effect is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved or deemed approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

(Source: WOS 2011-005, February 26, 2011, Section III)

#### **7.404 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.

(Source: WOS 2011-005, February 26, 2011, Section IV)

#### **7.405 USE OF GAMING REVENUE**

**A.** Net revenues from tribal 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.

**B.** If the Tribe elects to make per capita payments to Tribal Citizens, it shall authorize such payments only in accordance with a plan submitted to and approved by the Secretary of the Interior.

**C.** The Tribe shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that 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, under a plan approved by the Tribal Council and the Secretary of the Interior.

(Source: WOS 2011-005, February 26, 2011, Section V)

#### **7.406 GAMING REGULATORY COMMISSION**

**A.** The Tribe hereby establishes a Tribal Gaming Regulatory Commission as an Executive Commission whose duty it is to regulate tribal gaming operations. 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 purpose of the Commission is to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission 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 Commission will monitor

compliance with the internal control standards for the gaming operation and track revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

**C.** The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be and act independently and autonomously from the Tribal Council in all individual licensing decisions. No prior or subsequent review by the Tribal Council of any licensing and fining actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Statute. 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 Tribal Gaming Board of Directors member may serve on the Commission.
3. No Tribal member directly related to or living with any Tribal Gaming Board of Directors member may serve on the Commission.
4. Members of the Commission and Gaming Board of Directors 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.

**D.** 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.

E. The Commission shall:

1. Conduct or cause background investigations to be conducted on primary management officials, key employees, non-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 a majority of the Commissioners present 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.
10. Hold hearings on patron and/or employee complaints, in compliance with procedures established in this Statute and other Tribal gaming regulations.
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. Promulgate and issue regulations necessary to comply with the Tribe and the NIGC Minimum Internal Control Standards (MICS).
13. Review and approve gaming operation policies and procedures for compliance with Tribal Minimum Internal Control Standards (TMICS) and may require the development of specific policies for the implementation of regulations for the approval by the Commission.
14. Promulgate and issue regulations on the levying of fees associated with gaming license applications.
15. 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.
16. Issue citations for violations of the gaming Statute, or any other Tribal, Federal, or State, if applicable, gaming regulations.

**17.** 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.

**18.** Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.

**19.** The Commission 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.

**F.** The Commission 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 tribal 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 Commission in the performance of their official duties to the extent permitted under applicable law.

**G.** Removal. Members of the Commission can only be removed in accordance with standards and procedures set out in the Commissioner Removal and Nepotism Act (Waganakising Odawak Statute 2001-10), or such successor statute as the Tribal Council may enact.

**H.** 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.

**I.** The Commission shall keep a written record of all its regularly scheduled, special, and emergency meetings, and licensing hearings and meetings.

**J.** All regulations promulgated under this Statute shall be submitted to Tribal Council for approval.

(Source: WOS 2011-005, February 26, 2011, Section VI)

#### **7.407 GAMING PROHIBITIONS**

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

**B.** With Tribal Council approval, gaming operations employees members of Tribal Council, Tribal Chair, Vice-Chair and members of the Judiciary may participate as a player in any game operated within the Facility shall have their license on them and assessable for review upon request by the Commission, management or security or other such designated individuals.

**C.** Gaming operations, members of Tribal Council, Tribal Chair, Vice-Chair and members of the Judiciary gaming activity shall be restricted by approved Regulations by Tribal Council.

**D.** 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.

**E.** 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.

**F.** 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.

(Source: WOS 2011-005, February 26, 2011, Section VII)

#### **7.408 ETHICS**

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

(Source: WOS 2011-005, February 26, 2011, Section VIII)

#### **7.409. 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 Board of Directors or the 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. Employee, Primary Management Official, Tribal Council member, Tribal Chairperson, Vice-Chairperson, member of the Tribal Judiciary shall not receive any items associated with promotions, incentives and awards related to gaming activity.

(Source: WOS 2011-005, February 26, 2011, Section IX)

#### **7.410 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 Commission may employ personnel to conduct the compliance function (internal audit) or the Commission 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.

(Source: WOS 2011-005, February 26, 2011, Section X)

#### **7.411 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 Commission to ensure compliance with non-gaming health and safety standards such as building codes, fire safety, etc.

(Source: WOS 2011-005, February 26, 2011, Section XI)

#### **7.412 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.

(Source: WOS 2011-005, February 26, 2011, Section XII)

#### **7.413 LICENSING OF EMPLOYEES**

**A.** The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II and/or Class III gaming enterprise. The Commission has the authority to set licensing standards and issue licenses to non-key employees of the enterprise. The application requirements and standards for issuance of non-key licenses will be set out in the regulations promulgated under this Statute and as approved by Tribal Council.

#### **B. Application Forms**

**1.** The following statement shall be placed on all key and primary management official license application forms:

**a.** “In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by federal regulations. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license

**b.** The information will be used by Commission and the NIGC members and staff who have need for the information in the performance of their official duties

**c.** The information may be disclosed 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 tribe 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

**d.** Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license a person in a primary management official or key employee position

**e.** The disclosure of Social Security Numbers (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing an application

**2.** The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

**a.** Complete a new application form that contains both the Privacy Act and false statement notices

**b.** Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice

**3.** The following statement shall be placed on the application form for a key employee or a primary management official:

**a.** A false statement on any part of an 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, or both.

## **C.** License Fees

The Tribe 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.

## **D.** Background Investigations

**1.** The Commission shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at

least as stringent as those in those in 25 CFR parts 556 and 558 or any successor or amended federal regulations.

2. The Commission shall conduct an investigation sufficient to make a determination under Subsection G. below. In conducting a background investigation, the Commission shall keep confidential the identity of persons who provided information during the course of the investigation, i.e. former employers, personal references. The Commission 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**

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the Commission 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.

**F. Procedures for Conducting a Background Check on Applicants**

1. As part of its review procedure, the Commission may employ or engage a private investigator to conduct a background investigation on each applicant sufficient to allow the Commission to make an eligibility determination under Subsection G. below. The investigator shall:

- a. Verify the applicant's identity through items such as a Tribal identification card, social security card, driver's license, birth certificate, or passport
- b. Contact each personal and business reference provided in the License Application

- c. Obtain a personal credit check
  - d. Conduct a civil history check
  - e. Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years or longer if required under the Compact or any applicable law or regulation
  - f. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes
  - g. Verify the applicant's history and status with any licensing agency by contacting the agency
  - h. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted
2. The investigator shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information.

#### **G. Eligibility Determination**

The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to determine if the applicant poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or does not meet such other standards as approved by Tribal Council through Regulations including *Protect Employee from Persons in Supervisory or Management Positions that have Committed a Domestic Violence Crime or Sexual Harassment Statute*, the Commission shall not license that person in a key employee or primary management official position. The application will include all charges and convictions as required

to be disclosed under federal or Tribal law or regulations, or under the terms of a gaming compact that the Tribe is party to. However, the Commission will not consider records expunged or sealed by a Court of law.

(Source: WOS 2019-005, May 1, 2019, Section XIII, Repeal and Replace)

**H. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.**

**1.** When a key employee or primary management official begins work at a gaming operation authorized by this Statute, the Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Subsection G. of this Section

**2.** The gaming operation shall not employ as a key employee or primary management official a person who after 90 days does not have a license

**I. Report to the National Indian Gaming Commission**

**1.** The Commission shall prepare and forward a report on each background investigation to the NIGC. An investigative report shall include all of the following:

**a.** Steps taken in conducting a background investigation

**b.** Results obtained

**c.** Conclusions reached

**d.** The bases for those conclusions

**2.** The Commission shall forward the completed investigative report to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Statute by the Chairman of the NIGC.

**3.** The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Commission to make a finding concerning the eligibility for employment in a gaming operation; and a statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

**4.** If a license is not issued to an applicant, the Commission:

**a.** Shall notify the NIGC if required under federal law or regulation in effect at the time

**b.** Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System

**5.** With respect to all employees, and in particular key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

**J.** Granting a Gaming License

**1.** If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Commission, acting

for the Tribe, may issue a license to such applicant.

2. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under Subsection J. 1 of this section until the Chairman of the NIGC receives the additional information.

3. If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

#### **K. License Suspension**

1. If, after the issuance of a gaming license, the Commission receives from the NIGC, or other credible source, reliable information indicating that a key employee or a primary management official is not eligible for a license, the Commission shall suspend/revoke such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. 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/suspension of a license.

3. After a revocation/suspension hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

(Source: WOS 2011-005, February 26, 2011, Section XIII)

#### **7.414 APPELLATE REVIEW**

Any Appeals of Regulatory decisions shall be decided by the Commission prior to being taken to the Tribal Court.

(Source: WOS 2011-005, February 26, 2011, Section XIV)

#### **7.415 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 1<sup>st</sup> and August 1<sup>st</sup> 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.

(Source: WOS 2011-005, February 26, 2011, Section XV)

#### **7.416 LICENSES FOR NON-KEY EMPLOYEES.**

- A.** All non-key employees must obtain and maintain in good standing a non-key license issued by the Commission in accordance with standards as set out in approved Regulations by Tribal Council.
- B.** A non-key employee cannot be promoted to a key employee position without first obtaining a key-employee license.
- C.** The application contents and procedures for a non-key license are the same as those for a license under Section XII, except information on non-key employees need not be sent to the NIGC or made available to the State of Michigan.



**D.** The standards of issuance, suspension and revocation of non-key licenses will be set out in the regulations approved by Tribal Council.

**E.** The following statement shall be placed on the application form for a non-key employee: “A false statement on any part of your 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, or both.”

(Source: WOS 2011-005, February 26, 2011, Section XVI)

#### **7.417 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 Commission in order to transact business with the Tribal 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 10% or more of the stock or are the 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 Tribe 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 Commission 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 Tribe 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.

(Source: WOS 2011-005, February 26, 2011, Section XVII)

#### **7.418 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 Tribal 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 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 Board of Directors and Casino Management.

(Source: WOS 2011-005, February 26, 2011, Section XVIII)

#### **7.419 LICENSE LOCATIONS**

The Commission shall issue a separate license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this Statute.

(Source: WOS 2011-005, February 26, 2011, Section XIX)

#### **7.420 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**

(Source: WOS 2011-005, February 26, 2011, Section XX)

#### **7.421 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.

(Source: WOS 2011-005, February 26, 2011, Section XXI)

#### **7.422 REGULATIONS**

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

(Source: WOS 2011-005, February 26, 2011, Section XXII)

#### **7.423 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.

(Source: WOS 2011-005, February 26, 2011, Section XXIII)

## Chapter 5. Gaming Authority Statute

### 7.501 REPEALS AND REPLACES

This Statute repeals and replaces WOS 2015-09 Gaming Enterprise Board Statute including previous Statutes: Waganakising Odawak Statute Gaming Delegation and Authority Statute 2010-21; 2009-012, WOS 2004-08, WOS 2001-12, or as amended.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section I)

### 7.502 PURPOSE

**A.** This Statute is created for the purpose of delegating management authority of the Tribe's Gaming Enterprise(s) in accordance with LTBB of Odawa Indians Constitution, Article VII D (24), *"To provide by statute for the management of any and all economic affairs and Enterprises of the Little Traverse Bay Bands of Odawa Indians that will further the economic development of the Tribe or its members. Such statutes will delegate management responsibilities to Tribally chartered corporations or other subordinate Tribal entities, or where appropriate, to the Executive Branch"* and who shall henceforth be known as the Little Traverse Bay Bands of Odawa Indians "Gaming Authority".

**B.** In accordance with LTBB of Odawa Indians Constitution, Article VII D Tribal Council is charged with the follow power: *"Raise revenue, including the power to enact laws to levy taxes and govern the collection of taxes and license fees;"*

**C.** The Gaming Authority reports directly to Tribal Council.

**D.** Since the Gaming Regulatory Commission is under the Executive Branch it would be in appropriate to have the Gaming Authority report to the Executive.

**E.** The Gaming Authority is a subordinate Tribal entity whose management authority and responsibilities are set forth in this Statute.

**F.** The Gaming Authority shall ensure that the Gaming Enterprise(s) comply with all applicable laws, regulations, policies and rules.

**G.** The Gaming Authority shall act in the best interest of the Tribe.

**H.** The Gaming Authority is to provide Equitable Distribution of profits to the Little Traverse Bay Bands of Odawa Indians Tribal government.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section II)

### **7.503 DEFINITIONS**

**A.** “*Annual Enterprise Business Plan*” means the twelve-month marketing, financial and operations plan written for the gaming operation and related ancillary businesses including short-term and long-term strategies of the Gaming Enterprise by department.

**B.** “*Annual Capital Asset Plan*” means the planned capital asset purchases for the fiscal year.

**C.** “*Annual Strategic Plan*” means the analysis and strategies the Gaming Enterprise intends to implement by department in order to meet its financial and operating goals and objectives.

**D.** “*Business Plan*” means a plan written for the operations of the Casino for a designated timeframe that includes goals, measurable objectives, strategies, tactics, person assigned to the task and timelines.

**E.** “*Director of Finance*” means the person employed by the Enterprises, who reports directly to the Gaming Authority, to oversee all financial affairs of the Enterprises.

**F.** “*Equitable Distribution*” means a balance between what is provided to the Tribe as a distribution and overall health of the casino operations that includes maintenance, employee



morale, and quality customer service.

**G.** “*Free play wager*” means a non-value promotional consideration afforded a player to participate in a game without requiring the player to place anything at risk.

**H.** “*Gaming Enterprise*” or “*Enterprises*” means the Odawa Casino Resort, Mackinaw Casino and any other tribally owned Enterprises or businesses related to gaming.

**I.** “*Fiscal Year*” means the twelve-month period from January through December.

**J.** “*Gaming*” means any game classified as "Class II" or "Class III" under the Indian Gaming Regulatory Act of October 17, 1988 and or future amendments.

**K.** “*General Manager*” means the person or persons hired to manage and oversee the day-to-day operations of the Enterprises.

**L.** “*GAAP*” or “*General Acceptable Accounting Principles*” means collection of commonly-followed accounting rules and standards for financial reporting.

**M.** “*Independent Auditor*” is the person or entity required under the LTBB Gaming Regulatory Statute, as amended.

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

**O.** “*LTBB Tribal Citizen*” means a person who is a member of the Little Traverse Bay Bands of Odawa Indians Tribe.

**P.** “*Odawa Online GSP*” is the Limited Liability Corporation created under WOS 2020-011 Amendment to WOS 2018-106 formed by the Gaming Authority to carry out off reservation online sports betting and gaming as may be authorized by Michigan law.

(Source: WOS 2022-004, May 31, 2022, Section III, Addition to Definitions)

**Q.** “*Public*” means Little Traverse Bay Bands of Odawa Indians Tribal Citizens and their immediate family members.

**R.** “*Senior Financial Analyst*” means the individual(s) employed by the Tribal Council in the Office of Finance and Revenue, or its successor office or department.

**S.** “*Tribal Council*” means the governing body of Legislative Branch of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section III)

#### **7.504 TRIBAL COUNCIL DELEGATION**

**A.** In accordance with the Tribal Constitution, Article VII D (24), Tribal Council delegates the management of the Gaming Enterprises to the Gaming Authority, a subordinate entity of the Tribe that reports to the Tribal Council.

**B.** The Gaming Authority shall be established with the current members of the Gaming Enterprise Board, provided that the members have an interest in continuance of service and that they meet qualifications as listed in this Statute.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section IV)

#### **7.505 COMPOSITION, REQUIRED QUALIFICATIONS, APPOINTMENT AND TERMS**

##### **A. COMPOSITION**

**1.** The Gaming Authority shall consist of three (3) to five (5) members who meet the eligibility requirements set out in subsection (B) of this section.

2. A majority of the members of the Gaming Authority shall be LTBB Tribal Citizens. Members of another tribe or non-tribal may fill the other positions on the Gaming Authority.
3. If an LTBB Tribal Citizen's term expires, they shall remain on the Gaming Authority until a successor is appointed. In all other cases, if the term expires then the appointment will end.
4. The Gaming Authority shall have three (3) officers including a Chairperson, Vice Chairperson and Secretary/Treasurer. The officers are elected and approved by the Gaming Authority. Election of Officers shall be held annually.

**B. REQUIRED QUALIFICATIONS**

To serve on the Gaming Authority a person must meet the following:

1. Must be licensed under the Tribe's Gaming Regulatory Ordinance.
2. Must possess one of the following educational or experience qualifications:
  - a. Possesses a Degree in Business Administration, Finance, Hospitality or a related discipline; or
  - a. A minimum of three (3) years successful work experience in a management position in the field of business administration, public administration, gaming industry, hotel management, accounting, finance or law; or
  - b. A minimum of six (6) years of gaming work experience preferably with specialized knowledge and expertise relevant to the gaming industry.
3. Possesses leadership qualities, shows good judgment, is approachable and team oriented;

4. No person can serve on the Gaming Authority who is an elected official of LTBB;
5. No person can serve on the Gaming Authority who is employed by any Gaming Enterprises of LTBB or LTBB's direct competitor. A direct competitor is an entity that is competing for the same market as LTBB's Gaming Enterprises.
6. No person shall serve on the Gaming Authority who is within seven (7) years of completion of a sentence or probation upon being convicted of a felony in Tribal, State, or Federal Court, unless such conviction has been vacated or overturned;
7. No person shall serve on the Gaming Authority who is on a Security Ban from the Gaming Enterprise or who has been banned in the last two (2) years, unless the ban is a self-imposed ban;
8. No person shall serve on the Gaming Authority if there is a direct employment relationship with another Gaming Authority member, or Regulatory Commission or staff, in either a direct report or supervisory position.

## **C. APPOINTMENTS & TERMS**

1. Gaming Authority members who meet the qualifications, shall be approved by a majority vote of Tribal Council for a one (1) to four (4) year term. Positions will be approved on a staggered calendar. If a vacancy occurs during a term, every effort will be made to appoint another candidate to serve the remainder of the term.
2. Any Gaming Authority member may resign at any time. Such resignation will be in writing and submitted to the Gaming Authority Chair. The Gaming Authority Chair will immediately give notification to Tribal Council. If the person resigning is the Gaming Authority Chair, the resignation will be submitted directly to Tribal Council. Resignations shall take effect immediately without acceptance.

**3.** The Gaming Authority may recommend to Tribal Council the removal of a Gaming Authority member for cause. Such recommendation shall be by a majority vote of the Gaming Authority, using the following criteria:

- A.** Intentional act or failure to act resulting in material harm to the organization.
- B.** Found liable of discrimination based on protected classes or of sexual harassment.
- C.** Incompetency.
- D.** Violation of the Constitutionally Mandated Rules of Conduct or other Ethical violations.
- E.** Neglect of duties.
- F.** Violations of Tribal law.
- G.** Violations of Gaming Authority Policy.
- H.** Failure to attend Gaming Authority meetings within a consecutive three (3) month period.

**4.** Gaming Authority members may be removed by a majority vote of Tribal Council for any of the criteria listed in 3 above. Prior to any vote for removal, the Gaming Authority member has the right to request a hearing before Tribal Council.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section V)

## **7.506 COMPLIANCE RESPONSIBILITY**

- A. The Gaming Authority shall adhere to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government that are approved by Tribal Council and any other subsequent rules, as it may apply.
- B. The Gaming Authority shall adhere to the Tribal Minimal Internal Control Standards (TMICS) and all other applicable Statutes and laws.
- C. The Gaming Authority shall ensure that all “*Free play wager*” must be accounted for separately from revenue; and shall never be included as revenue in any revenue report.
- D. The Gaming Authority shall adhere to all applicable Policies and Procedures approved by the Tribal Council.
- E. No member of the Gaming Authority shall be allowed to participate in any gaming activity operated by LTBB while serving on the Gaming Authority and for at least forty-five (45) days after leaving the Gaming Authority.
- F. No member of the Gaming Authority shall be employed by the Enterprise for a period of forty-five (45) days after serving on the Gaming Authority.
- G. Upon notice of an investigation of a Gaming Authority member’s license, the Gaming Authority member shall be suspended from participating on the Gaming Authority and all pay will be suspended.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section VI)

## **7.507 POWERS, DUTIES AND FUNCTION**

- A. **POWERS.** The Gaming Authority shall have the following duties and powers in connection with the Gaming Enterprise:
  - 1. **Employment.** The Gaming Authority shall employ a General Manager through an employment contract. The employment contract shall contain the following terms:

length of employment; rate of pay; bonus structure; general terms and conditions of employment; and the requirement to adhere to all tribal laws. The General Manager shall be required to be licensed by the Gaming Regulatory Commission.

**2. Evaluation, Suspension, or Termination of the General Manager.** The Gaming Authority may evaluate, suspend with or without pay or terminate the General Manager's employment prior to the expiration of his or her contract.

**3.** Through policy and procedures, address employee and/or customer complaints that involve the General Manager.

**4. Vacancy.** The Gaming Authority shall have a policy in place in the event that there is a vacancy in the General Manager's position. Such policy shall utilize one or more of the executive management of the operation.

**5.** To employ staff to carry out the Gaming Authority's functions, provided funding is available.

**6.** To employ or retain consultants and/or legal counsel to advise the Gaming Authority, provided funding is available. Per the Constitution, employment of legal counsel shall be approved by Tribal Council.

**7.** Report to Tribal Council, all major events such as closure of the casino, levied fines, resignation of a Gaming Authority member, loss of Gaming Authority member's license, hiring or termination of the General Manager, and/or any other information having a direct impact on Gaming Enterprise operations.

## **B. DUTIES AND FUNCTIONS**

**1.** The duties of the Gaming Authority shall include review and approval of Gaming Enterprise policies, procedures, plans and budgets which shall include, but not be limited to:

- a.** Human Resources policies. Any Human Resources policy adopted by the Gaming Authority shall include a standard process for all employees that provides for the right to grieve a termination;
  - b.** Annual Enterprises Business plan;
  - c.** Annual operating budget and any modifications. Variances of four percent (4%) or more shall be reported to Tribal Council;
  - d.** Distribution of annual services payments to the Tribal Government.
- 2.** The Gaming Authority shall monitor compliance of the approved policy and procedures through the General Manager but shall not be involved in the day-to-day decision-making process of the Gaming Enterprises and its operations. Any Gaming Authority approved policy shall be reported to Tribal Council and upon request copies shall be made available to Tribal Council.
- 3.** Review and approve the establishment and maintenance of bank accounts as may be necessary for the operations of the Enterprises. The Senior Financial Analyst shall be made aware of any changes to the bank accounts. The Senior Financial Analyst shall have access to all bank accounts, with “read only permission” access.
- 4.** The Gaming Authority shall be responsible for maintaining regular reporting and accountability to both the Tribal Council and the Tribal Citizens through the development of appropriate financial reporting.
- 5.** The Gaming Authority is not authorized to incur any financial obligation or liability, other than what is in the Gaming Authority’s approved budget, without prior Tribal Council approval.
- 6.** The Gaming Authority shall present an annual budget to the Tribal Council via the Appropriation and Finance Committee for approval. Such proposed budget shall be submitted in a timely manner so that the fiscal year’s budget is in place by the beginning



of the fiscal year.

7. The Gaming Authority shall adopt meeting policies and any other policies for Gaming Authority business, provided such policies are in accordance with this Statute.

8. The Gaming Authority is authorized to operate, including entering into contracts to aid in the operation of, off-reservation on-line sports betting and gaming as may be authorized by Michigan law, and to apply for and maintain, or assist the Tribal government to apply for and maintain, any necessary State licenses. The Gaming Authority may, in its discretion form a sub-entity such as an LLC to carry out this duty.

(Source: *For Section VII(B)(8)* WOS 2020-011, May 4, 2020, Section VII)

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section VII)

#### **7.508 MEETINGS**

A. The Gaming Authority shall meet in person at least once per month, and the agenda shall include a time for public comment. Such meeting will be held within the LTBB reservation and open to Tribal Citizens.

B. Closed Sessions may be held only for the purposes of personnel, litigation, confidential business or legal matters; or matters that rise to the level of significant privacy or confidentiality. Tribal Councilors or Tribal Council's designee may attend closed sessions, except for personnel matters, as observers only.

C. Minutes shall be taken and posted.

D. Each meeting shall contain a public comment period that will be open only to the public as defined by the Open Meetings Statute.

E. Notice of meetings or work-sessions shall be posted forty-eight (48) hours in advance.

**F.** Gaming Authority business that requires immediate attention may be conducted by electronic means. Any action taken via electronic means shall be recorded in the minutes of the next regularly scheduled meeting. The Gaming Authority Secretary/Treasurer or designee shall attempt to notify each of the Gaming Authority members of the electronic communication or conference call by any practical means including telephone, fax, email, text or in person and must certify that an attempt was made to contact each Gaming Authority member.

**G.** Emergency meetings may only be called when immediate action is necessary for the preservation or promotion of essential interests of the Tribe and Enterprises. The emergency action taken must be ratified at the next regularly scheduled meeting of the Gaming Authority, and the minutes must state the reason that such emergency action was necessary.

**H.** A quorum for a Gaming Authority meeting shall consist of a majority of the members who are currently serving on the Gaming Authority. A meeting may not be called to order without a quorum present and no official business shall be conducted without a quorum.

**I.** Gaming Authority records shall be open to Tribal Citizens upon request in accordance with Tribal law, except in matters of confidential business, or potential business dealings as defined by Tribal Statute.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section VIII)

## **7.509 COMPENSATION**

**A.** The Gaming Authority shall be compensated, subject to the availability of funds, as follows:

- 1.** Four hundred dollars (\$400.00) Odawa Casino Resort meeting stipend, and two hundred dollars (\$200.00) for any Gaming Authority sub-entity (such as Odawa Online GSP, LLC) meeting stipend. In order to receive the meeting stipend, the Gaming Authority member must be in attendance at least for  $\frac{3}{4}$  of the meeting.

(Source: WOS 2022-004, May 31, 2022, Section IX(A)(1), Amendment)

2. Meeting stipends shall not be paid for other activities such as attendance at events, trainings, or conferences.
3. Expenses for travel for meetings, training and conferences shall include per diem and reimbursement of expenses in accordance with the Tribal Council approved Travel policies.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section IX)

#### **7.510 REQUEST FOR INFORMATION**

- A. If the Gaming Authority as a whole or individually makes any written or verbal requests to an individual Tribal Councilor, all of Tribal Council will be copied on the request.
- B. If an individual Tribal Councilor makes any written or verbal requests to the Gaming Authority or Gaming Authority member, all of Tribal Council will be copied on the request.
- C. Any verbal communications or requests to or from the Gaming Authority to a Tribal Councilor shall be reported by the Tribal Councilor under the “Tribal Council Member Report” on the next Tribal Council agenda.
- D. Tribal Council also designates the Senior Financial Analyst the authority to request, on behalf of a Councilor or Tribal Council, any financial information. All of Tribal Council will be copied on the written requests, along with the responses. Any verbal requests shall be reported by the Senior Financial Analyst at the next Tribal Council meeting.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section X)

#### **7.511 REPORTING REQUIREMENTS**

**A. Monthly Reports.** The Gaming Authority shall provide Tribal Council a monthly report that contains the following and shall be submitted to the Tribal Council within thirty (30) days from the end of the prior month:

1. Property Overview: report on all maintenance and cap ex projects
2. Marketing and promotions
3. Operational Updates
4. Human Resources
5. Financial Review
6. Actual revenues
7. Expenses and earnings before Interest Taxes, Depreciation and Amortization (EBITA) for the preceding month (actuals), current month (projection) and not less than two (2) months in advance (forecast) based on Annual Enterprise Business Plan
8. The number of employees, number of Tribal Citizens, other Natives and non-Natives employed, and turn-over-rate, number of Tribal Citizens in management positions, Native or non-Native employed in management positions
9. Request of new development and/or capital projects
10. All other relevant information.

**B. Director of Finance Monthly Financial Report.** The Director of Finance shall provide a monthly report of all Gaming Enterprises financial records, in accordance with GAAP, to the General Manager, the Gaming Authority, Tribal Council, and the Sr. Financial Analyst. The Monthly report shall contain confidential Financials for each Gaming Enterprise

owned by the Tribe and shall be submitted to the Tribal Council within twenty (20) days from the end of the prior month.

1. Managerial
2. Gaming
3. Hotel
4. Food and Beverage
5. Gift Shop and Events Center
6. Marketing
7. Support Services
8. Annual Service Payments
9. Casino Performance Ratios
10. Sales Comparison chart
11. EBITDA Comparison chart
12. Current Actual vs. Prior Year vs. Budget
13. Statement of cash flows
14. Actual vs. Budget vs. Last Year for each Department
15. Notification of budget modifications or amendments over a 4% change, either increase or decrease of a department budget

16. Promotional play

17. Profit Statements, Loss Statements and Equity Statements submitted under separate cover.

**C. Quarterly Report.** On a quarterly basis, the Gaming Authority shall provide Tribal Council and the Senior Financial Analyst the projected and forecasted revenues. Additionally, on a quarterly basis or upon request of Tribal Council, the Gaming Authority will meet with the Tribal Council and provide an update on operations of the Gaming Enterprise and shall provide input for the determination of what amount shall be considered an Equitable Distribution. Based on these discussion, Tribal Council shall determine the amount of Equitable Distribution that the Gaming Authority shall provide as profits to the LTBB Tribal government.

**D. Annual Report.** By March 31st of each year, the Gaming Authority shall prepare and deliver to Tribal Council an annual report and an audited financial statement, including a statement of cash flows, balance sheet and an income statement, including comparative figures from the preceding fiscal year. Also, a meeting will be scheduled within forty-five (45) business days from the end of the Fiscal Year, for Tribal Council to meet with the full Gaming Authority, the General Manager and the OCR Executive Team to review the preliminary finances of the past year and discuss plans for the upcoming year.

**E. Independent Audit.** The Tribal Council shall appoint an independent auditor to conduct the annual financial statement audit and minimum internal control testing as required by 25 C.F.R. §§ 522.4 and 571.12 and any other applicable or successor Federal regulations. A Copy of the Audit shall be submitted to the following:

1. The Gaming Authority
2. Tribal Council
3. Sr. Financial Analyst

#### 4. LTBB Chief Financial Officer

**F. Delivery Method of Reports.** The Reports may be transmitted electronically to the following emails: Tribal Council TribalCouncil@ltbbodawa-nsn.gov, and Senior Financial Analyst email.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section XI)

#### 7.512 NEPOTISM

**A.** For Purposes of this Statute, two (2) or more members of the same immediate family shall not serve on the Gaming Authority at the same time. Further, a person shall not serve on the Gaming Authority if the General Manager, CFO, Internal Auditor, Tribal Chairperson or Vice-Chairperson, or a Tribal Councilor is an immediate family member. For purposes of this section immediate family means husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child.

**B.** No Gaming Authority member may participate in making any decision that involves a personal or financial interest of the Gaming Authority or a member of his or her immediate family, unless interest is held in common with the Tribe and its Citizens.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section XII)

#### 7.513 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 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 2018-016, September 13, 2018, By Veto Override, Section XIII)

#### **7.514 EFFECTIVE DATE**

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

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section XIV)

#### **7.515 OTHER RELATED STATUTES**

See Waganakising Odawak Statute 2011-005 “Gaming Regulatory Statute”,  
Waganakising Odawak Statute 2013-007 “Contracting Statute”, or as may be amended.

(Source: WOS 2018-016, September 13, 2018, By Veto Override, Section XV)



## Chapter 6. Investment Statute

### 7.601 PURPOSE

It is the purpose of the Little Traverse Bay Bands of Odawa Indians (LTBB) to invest its funds in keeping with the Investment Policy Statement (IPS) of the Tribe and to comply with any applicable federal laws or regulations regarding federal program monies received and administered by the Tribe. This statute repeals and replaces WOS 2000-13, WOS 2007-002 and WOS 2009-015.

(Source: WOS 2012-012, September 9, 2012, Section I)

### 7.602 DEFINITIONS

**A.** “Registered Investment Advisor” means any person or group that makes investment recommendations or conducts securities analysis in return for a fee, whether through direct management of client assets or via written publications and who is registered with the Financial Industry Regulatory Authority.

**B.** “Investment Manager” means a person or, more often, a bank or business who controls an investment portfolio on behalf of a client. Investment managers make investment decisions on behalf of the client in accordance to the parameters set by the client in the Investment Policy Statement (IPS). The goal is to make the most profit for the client as possible within the parameters set in the IPS. Some investment managers have more autonomy than others, depending upon the client's needs and desires. Institutional investment managers normally hire a team to work on the different accounts it has under management. Unlike brokers, investment managers are not paid on commission, but rather by a percentage of the total amount of money under management. This gives the investment manager an incentive to work for the client's profit, as the more money the manager accumulates, the more the manager makes.

**C.** “Market Cycle” means the time period between the two latest highs or lows of the S&P 500 Index, showing net performance of a fund through both an up and a down market.

**D.** “Index” means a recognized grouping of securities used to measure the general performance of a market or market sector.

(Source: WOS 2012-012, September 9, 2012, Section II)

### **7.603 INVESTMENT ADVISOR**

**A.** The Tribal Council or its designee retains a Registered Investment Advisor for the following:

- 1.** Assist the Tribe in strategic investment planning for the Tribes assets by providing assistance in developing an Investment Policy Statement, an asset allocation strategy, and portfolio structure.
- 2.** Provide written performance measurement reports on a quarterly basis.
- 3.** Assist the Tribal Council or its designee in its selection of investment strategies.
- 4.** Meet with the Tribal Council or its designee biannually to assist it review the last six months investment performance and consider whether any changes or other actions are called for with respect to the investment portfolio.

**B.** The Registered Investment Advisor is prohibited from disseminating advice known to be deceitful or fraudulent and from acting as a principal on their own accounts by buying and selling securities between themselves and a client without prior written consent.

(Source: WOS 2012-012, September 9, 2012, Section III)

### **7.604 INVESTMENT POLICY STATEMENT**

**A.** Tribal Council or its designee shall acquire assistance from persons with a financial background to formulate an Investment Policy Statement in order to implement an investment plan.

**B.** Tribal Council shall adopt an Investment Policy Statement (IPS) that sets forth a plan for the management of the assets and is used to direct and communicate the activities of the portfolio.

**C.** This IPS will serve as a formal, long-range, plan that allows Tribal Council or its designee to coordinate the management of the investment program in a logical and consistent framework and outlines the goals and investment objectives of the Tribe.

**D.** The IPS will be reviewed by Tribal Council as needed. All Tribal Investment Policy Statement and updates shall be submitted to Tribal Council for approval prior to its implementation.

**E.** The Investment Policy Statement shall include but not be limited to the following:

**1.** An assessment of the amount of risk the Tribe is willing to accept according to the then current and expected future economic conditions to determine the Fund or Funds risk tolerance level and the classes of investments that are allowed.

**2.** A determination of the proportionate amount (percentage) of investments (assets) the Tribe will allocate toward equities and fixed income investments and the amount of investment loss the Tribe is willing to accept. An example would be a loss of five percent (5%) on a ten (10) million dollar investment would be five hundred-thousand dollars (\$500,000). When the amount of loss is reached, some stock (equity) funds should be rebalanced toward more secure investments. When it is believed that the market has stabilized and a bottom has been reached, the allocation between equities should be increased in relation to fixed income investments in keeping with the Investment Policy Statement, and in consultation with the investment manager.

**3.** Establishing reasonable short term and/or long term investment objectives and define the length of time for each period as well as outlining the Tribes goals and guidelines for the Investments as outlined in the IPS. The major component of the Investment Policy Statement is identifying which investment classes are permitted and

the allocation of these assets among various security classes to diversify into different investments that are not positively correlated with one another. The IPS will address further considerations for investment for these investment classes including diversification, quality and marketability and concentration by Issuer.

4. The Investment Policy Statement will need to be reviewed and possibly revised from time to time to ensure that it continues to reflect the Tribe's attitudes, expectations and objectives.

5. The Tribe in its discretion may invest the funds in Tribal Enterprises offering a significant rate of return for the risk associated with the investment as long as the estimated return is greater than the five (5) year risk-adjusted return on the investment portfolio.

(Source: WOS 2012-012, September 9, 2012, Section IV)

#### **7.605 FUNDS**

A. The Tribal Council or through its designee is hereby authorized to purchase or sell investment tribal funds in accordance with the Tribes Investment Policy Statement.

B. This Statute applies to all financial assets of LTBB including, but not limited to, funds derived through federally funded contracts and programs, such as The Indian Self-Determination & Education Assistance Act (Public Law 93-638) contract monies and Native American Housing Assistance Self Determination Act grants, and funds derived from LTBB enterprises. These assets are accounted for in various bank accounts held in the name of LTBB.

C. When making and administering investments under the authority of this Statute, funds received under a specific federal contract or grant, or from any other government or private funding source for specific purposes, must be individually invested for the short-term and accounted for, and shall not be co-mingled with any other funds. Such funds must be invested in a manner that ensures their availability for expenditure as set out in the contract or grant documents. Short term guaranteed preservation of principal is essential for such funds.

**D.** Tribal General Funds, including those derived from the enterprises and any other federal fund revenue sources shall be invested in a diversified manner designed to meet both the short and long term financial needs of LTBB as outlined in the Tribe’s Investment Policy Statement. The Executive shall review the annual budget approved by the Tribal Council to calculate the estimated thirty (30) day, bi-annual and annual cash flows necessary to support LTBB operations and capital needs and update the calculations on a monthly basis. This information will be provided to Tribal Council as set forth in this section, or as requested by Tribal Councilor or its designee and will be utilized to determine the amount of funds that can be set aside for short term and longer term investments.

(Source: WOS 2012-012, September 9, 2012, Section V)

#### **7.606 INVESTMENTS GENERAL GUIDELINE**

**A.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Any asset fees and third party analysis fees incurred in making investments shall be paid with income from such investments.

**B.** Any investment plan used to implement the Investment Policy Statement will be approved by Tribal Council or its designee.

**C.** When investments are doing well and their proportionate percentage amount of the total portfolio have increased to greater than the allocation plan, as stipulated in the Investment Policy Statement, then the additional value from those funds should be sold and the profits should be reallocated to other investments to rebalance the plan into a position of policy compliance. A market decline cannot be predicted however if one occurs, funds may be liquidated as outlined in the IPS.

**D.** Hire or retain a financial expert that is a registered representative that works for a managed asset fee and not a sales commission. This expert should monitor the Tribe’s

investment accounts at least monthly to determine risk and diversification in accordance with the Tribes Asset Allocation Plan as spelled out in the Investment Policy Statement. The Tribal Council or its designee may use an in-house expert, if available to monitor its portfolio's monthly portfolio performance as well via monthly financial statements provided by the investment manager.

**E.** A review of the Investment Manager's practices, process management systems, risk, performance and management fees shall be audited by an independent, global assessment and certification organization at least each three (3) year period (timed to match an average 3-5 year market cycle) to assure the Tribe's assets are invested according to the Tribe's Investment Policy Statement, to determine if the existing Investment Manager is meeting its fiduciary responsibility to the Tribe and to determine if the firm's management fee remains reasonable and competitive with other Certified Investment Managers.

**F.** Nothing above may preclude the Tribal Council from conducting its own independent determination of whether the investment manager is meeting their fiduciary responsibilities to the Tribe. The Tribal Council may require an extra level of scrutiny, or consider termination, of an investment manager based on factors such as:

- 1.** Any material event that affects the ownership or capital structure of the investment management firm, or the management of this account.
- 2.** Any legal or regulatory action taken against the manager.
- 3.** Any material servicing deficiencies, including failure to communicate in timely fashion significant changes as outlined in the IPS.
- 4.** Violation of the terms of the contract or changes to an agreed upon services without prior written approval of Tribal Council or its designee.
- 5.** Significant style drift from the intended investment style that the manager was engaged to implement.

**6.** Lack of diversification.

**G.** The Tribal Council shall approve the Investment Manager selection and termination criteria which shall be based on the three year professional review above. If a determination is made to change the investment manager then a minimum of three (3) potential Investment Firm candidates shall be selected to submit their proposals via an RFP selection process which evaluates such factors as:

- 1.** Influence of existing manager on selection of assets.
- 2.** Compliance history.
- 3.** Short term and long term performance with more emphasis put on long-term performance.
- 4.** Investment Style.
- 5.** Focus on a systematic process that is appropriate for the organization as outlined in the Tribe's IPS.
- 6.** Other factors as recommended from the Tribal Council or its designee and agreed upon by the Tribal Council.

(Source: WOS 2012-012, September 9, 2012, Section VI)

(Source: WOS 2012-021, December 2, 2012, Section VI(F)(4))

**7.607 PROHIBITED INVESTMENTS AND USES.**

**A.** The Tribal Council or its designee shall not invest any Little Traverse Bay Bands of Odawa Indians funds contrary to the funds approved for investment as outlined in the Tribe's IPS.

**B.** The Tribal Council will not be permitted to utilize the investment funds or future profits (cash flow) as collateral for a loan.

C. The funds that have been invested can only be withdrawn or expended by prior approval of Tribal Council. There is no dollar or percentage limit on the maximum amount of funds that can be liquidated by the Tribe.

(Source: WOS 2012-012, September 9, 2012, Section VII)

## **7.608 REPORTING**

A. The Investment Manager should be available on a reasonable basis for telephone communication when needed.

B. The Investment Manager must provide the following reports to the Tribal Council, its designee and the respective firm or person monitoring the Investment Manager including:

1. Monthly detail of all account transactions.
2. Written quarterly performance evaluation reports to illustrate the risk/return profile of the various investments contained within the entire account and the chosen asset classes and how it correlates to the Tribe's IPS.
3. Semi-annually the investment manager will meet in person with the Tribal Council, its designee and the respective firm or person monitoring the Investment Manager to review the last six months performance through June 30<sup>th</sup> and December 31<sup>st</sup> of each calendar year.

C. The investment performance of the total portfolio and equity and fixed income segments (both in terms of return and risk) will be measured against commonly accepted benchmarks such as "Indices" as outlined in the IPS. Consideration shall be given to the extent to which the investment results are consistent with the investment objectives, goals and guidelines as set forth in the IPS.

(Source: WOS 2012-012, September 9, 2012, Section VIII)



### **7.609 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 2012-012, September 9, 2012, Section IX)

### **7.610 EFFECTIVE DATE**

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2012-012, September 9, 2012, Section X)

## Chapter 7. Hotel Room Tax

### 7.701 PURPOSE

The purpose of this statute is to raise revenues for the Little Traverse Bay Bands of Odawa Indians through the imposition of a room tax at hotels located within the Tribe's territorial jurisdiction. This statute repeals and replaces Waganakising Odawak Statute 2010-005 and 2003-04.

(Source: WOS 2024-001, January 15, 2024, Section I)

### 7.702 DEFINITIONS

- A. "Hotel" means any facility that offers rental lodging to members of the public.
- B. "Non-Profit Organizations" means entities organized and formally certified as such under the laws of LTBB or other governments.
- C. "Other Governments" means tribal, federal and state governments, including their agencies and subdivisions.
- D. "Tax Agreement" means the December 20, 2002 Tax Agreement Between the Little Traverse Bay Bands of Odawa Indians and the State of Michigan, including any amendments and/or successor agreement.
- E. "Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians" means all land that is held in trust by the United States government for the benefit of the Tribe.
- F. "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2024-001, January 15, 2024, Section II)

### **7.703 ROOM TAX**

**A. Hotels Exempt from State Tax.** Any hotel located within the Tribe’s territorial jurisdiction that is exempt from the imposition of Michigan sales or use tax under the Tax Agreement shall collect 6% use tax on the price of hotel rooms rented to non-LTBB members. This tax shall be separately itemized and accounted for in the total charge to such patrons, and placed in such accounts as directed by the LTBB Tribal Council.

**B. Hotels Subject to State Tax.** Any hotel located within the Tribe’s territorial jurisdiction that is not exempt from the imposition of Michigan sales or use tax under the Tax Agreement shall collect a 6% use tax in addition to any required state taxes on the price of hotel rooms rented to non-LTBB members. This tax shall be separately itemized and accounted for in the total charge to such patrons, and placed in such accounts as directed by the LTBB Tribal Council.

**C. Discretionary Exemptions.** Hotels within the territorial jurisdiction of LTBB may exempt representatives of Other Governments and Non-Profit Organizations from Tribal taxes under this section when lodging for official business purposes on behalf of such government or organization.

(Source: WOS 2024-001, January 15, 2024, Section III)

### **7.704 USE OF FUNDS**

The funds collected under the authority of this statute may be used for any lawful purpose as directed by Tribal Council.

(Source: WOS 2024-001, January 15, 2024, Section IV)

### **7.705 EFFECTIVE DATE**

Effective upon signature of the Executive or 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 2024-001, January 15, 2024, Section V)

## Chapter 8. Odawa Economic Development Management

### 7.801 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Economic Management Statute.”

(Source: WOS 2009-24, July 26, 2009, Section I)

### 7.802 DEFINITIONS

**A.** “*Gaming Commercial Enterprises*” means the Odawa Casino Resort and ancillary enterprises and activities, including the Odawa Casino Resort, related hotel and restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

**B.** “*Non-gaming Economic Affairs*” means economic development enterprises and activities not related to the gaming commercial enterprises.

**C.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” 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.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

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

**E.** “Tribal Constitution” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

**F.** “Tribal Council” means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal Council”.

(Source: WOS 2009-24, July 26, 2009, Section II)

### **7.803 CREATION OF THE ODAWA ENTERPRISE MANAGEMENT, INC. CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named the “Odawa Economic Development Management, Inc.” The organization is recognized by the approval of the tribal corporation charter; “Odawa Economic Development Management, Inc” by Tribal Council.

(Source: WOS 2009-24, July 26, 2009, Section III)

### **7.804 SCOPE OF ACTIVITIES**

**A.** The Odawa Economic Development Management, Inc. is authorized to conduct enterprise activities at the following locations:

1. Commercial site located at 1966 US 131 South, Petoskey, Michigan.
2. Commercial site located at 1020 S Nicolet St, Mackinaw City, Michigan
3. Other such properties, enterprises or activities as designated and approved by Tribal Council.

**B.** The Odawa Economic Development Management, Inc. shall be assigned those assets as

existed and are currently within the designated commercial sites including real property, tangible and intangible properties. Such assets shall be held by the Odawa Economic Development Management, Inc. on behalf of the Tribe and shall be managed to provide long term revenue for Tribal governmental programs and activities. The assets assigned in this Statute shall be independently managed by the Odawa Economic Development Management, Inc.

(Source: WOS 2009-24, July 26, 2009, Section IV)

#### **7.805 MANAGEMENT; STRUCTURE AND FUNCTION**

**A.** The Odawa Economic Development Management, Inc. shall have sole authority and responsibility for managing the Odawa Economic Development Management, Inc. and related enterprise, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

**B.** The Odawa Economic Development Management, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

**C.** It is the duty of the Odawa Economic Development Management, Inc. to monitor activities and operations to provide guidance to the management of the operations.

**D.** It is the duty of the Odawa Economic Development Management, Inc. to protect assets of the Tribe and generate revenues to support Tribal Governmental Services and Programs.

(Source: WOS 2009-24, July 26, 2009, Section V)

#### **7.806 REPORTING TO TRIBAL COUNCIL**

In order to regulate, the Odawa Economic Development Management, Inc. shall report to the Tribal Council on the following information regarding the Odawa Economic Development Management, Inc. and at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, at least quarterly or as requested:

- A. Annual operating plan;
- B. Financial performance measures;
- C. Audits, whether internal or external;
- D. Financial records or statements;
- E. Tribal Council may request reports regarding all aspects of the Odawa Economic Development Management, Inc.

(Source: WOS 2009-24, July 26, 2009, Section VI)

#### **7.807 FINANCING OF THE ODAWA ECONOMIC DEVELOPMENT MANAGEMENT, INC. AND ACTIVITIES**

- A. The annual budget for the Odawa Economic Development Management, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.
- B. Tribal Council approval is required for borrowing of funds. The Odawa Economic Development Management, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2009-24, July 26, 2009, Section VII)

#### **7.808 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.



(Source: WOS 2009-24, July 26, 2009, Section VIII)

### **7.809 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 2009-24, July 26, 2009, Section IX)

## **Chapter 9. Repeal of Waganakising Odawa Development, Inc.**

### **7.901 FINDINGS AND REPEALED**

The entity of the Waganakising Odawa Development, Inc. are no longer applicable to the current organization of the Little Traverse Bay Bands of Odawa Indians tribal government and WOS 2010-006, Waganakising Odawa Development, Inc. along with its Corporate Charter are hereby repealed in its entirety.

(Source: WOS 2014-016 Repealed 2010-006, November 6, 2014 Section I)

### **7.902 DISSOLUTION OF ASSETS**

All assets of the Corporation shall be distributed as follows:

1. Any property held upon an express condition requiring its return, transfer or other disposition shall be distributed accordingly;
2. Any property or assets required to be distributed or transferred in any manner according to federal law shall be distributed or transferred accordingly;
3. Tribal Council approves the payment for any claims of creditors and
4. Any remaining assets shall be transferred to the Tribe's general fund.

(Source: WOS 2014-016 Repealed 2010-006, November 6, 2014 Section II)

### **7.911 EFFECTIVE DATE**

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2014-016 Repealed 2010-006, November 6, 2014 Section III)

## Chapter 10. Reserved

## Chapter 11. Ziibimijwang Incorporated Statute

### 7.1101 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4) of the Tribal Constitution, the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for non-profit purposes, and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Ziibimijwang, Inc. Statute.”

(Source: WOS 2014-005, Veto Override May 18, 2014, Section I)

### 7.1102 DEFINITIONS

**A. “Non-profit”** means any generated surplus revenues must be retained by the corporation for self-preservation, expansion, plans or services, and not submitted to the Tribe except for repayment of funds.

**B. “Organic”** means food, feed or fiber produced in a way that complies with at a minimum the USDA National Organic Program (NOP) Standards.

**C. “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”** 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”* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

**D. “Tribal Corporation”** means any for-profit businesses and non-profit organizations formed by the Tribal Council and wholly owned by the Tribe, in accordance with WOS 2003-07, or as amended.

- E.** “**Tribe**” or “**LTBB**” means the Little Traverse Bay Bands of Odawa Indians.
- F.** “**Tribal Constitution**” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.
- G.** “**Tribal Council**” means the elected body of nine (9) Tribal Citizens of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal Council”.
- H.** “**Ziibimijwang**” means “*Place of the Flowing River*”.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section II)

#### **7.1103 CREATION OF ZIIBIMIJWANG, INC. CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named “*Ziibimijwang*”, Inc.” and shall be a self-sustaining non-profit entity and shall provide for the health and welfare of the Tribal Community through the use of sustainable farming with emphasis toward organic foods, providing for exercising treaty rights of hunting, fishing and gathering, agricultural activities, caring for livestock, and other activities that promote nutrition, fitness and wellbeing. The organization is recognized by the approval of the tribal corporation charter; Ziibimijwang, Inc., by Tribal Council.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section III)

#### **7.1104 SCOPE OF ACTIVITIES**

**A.** Ziibimijwang, Inc. is authorized to conduct activities on lands designated and approved by Tribal Council, including providing for the health and welfare of the Tribal Community through the use of sustainable farming with emphasis toward organic foods, providing for exercising treaty rights of hunting, fishing and gathering, agricultural activities, caring for livestock, and other activities that promote nutrition, fitness and wellbeing.

**B.** The Ziibimijwang, Inc. shall be assigned those assets as existed and are currently within any designated and approved lands, tangible and intangible properties, unless otherwise excluded by Tribal Council. Such assets shall be held by Ziibimijwang, Inc. on behalf of the Tribe. The assets assigned Tribal Council shall be independently managed by Ziibimijwang, Inc.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section IV)

## **7.1105 COMPOSITION and ELIGIBILITY**

### **A. Composition**

1. The Board shall consist of five (5) to seven (7) persons, of which three (3) shall be LTBB Tribal Citizens, and who meet the eligibility requirements set out in subsection (B) of this section.
2. The Board members shall have a Chairperson, Treasurer and Secretary elected by the Board members, every two years.

### **B. Eligibility**

To serve on the Board a person must meet all of the following criteria:

1. A person must be at least eighteen years of age;
2. No person can serve on the Board within seven (7) years of completion of a sentence or probation upon being convicted of a felony in tribal, state or federal court, unless such conviction has been vacated or overturned.
3. To be considered, a person should meet at least two of the following criteria:
  - i. High School Diploma or General Educational Development, (G.E.D.)

- ii. Two years of secondary education in agriculture, natural resources, or other related field
- iii. At least five (5) years of experience in one of the following: farming or gardening, providing for exercising treaty rights of hunting, fishing and gathering, agricultural activities, caring for livestock, and other activities that promote nutrition, fitness and wellbeing
- iv. Associate or Bachelor's degree in business, grantsmanship, accounting, marketing or other expertise that promotes the scope of activities.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section V)

#### **7.1106 MANAGEMENT; STRUCTURE AND FUNCTION**

- A.** Ziibimijwang, Inc. shall have sole authority and responsibility for managing Ziibimijwang, Inc., in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.
- B.** Ziibimijwang, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.
- C.** It is the duty of Ziibimijwang, Inc. to monitor activities and provide guidance to the management use of sustainable farming with emphasis toward organic foods, providing for exercising treaty rights of hunting, fishing and gathering, agricultural activities, caring for livestock, and other activities that promote nutrition, fitness and wellbeing operations.
- D.** It is the duty of Ziibimijwang, Inc. to protect assets of the Tribe and to support Tribal Governmental Services and Programs and Tribal Citizens.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section VI)



### **7.1107 REPORTING TO TRIBAL COUNCIL**

In order to regulate, Ziibimijwang, Inc. shall report to the Tribal Council on the following information regarding Ziibimijwang, Inc. and at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, at least quarterly or as requested:

- A. Annual operating plan;
- B. Financial status, including grants, records and statements;
- C. Audits, whether internal or external;
- D. Tribal Council may request reports regarding all aspects of Ziibimijwang, Inc.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section VII)

### **7.1108 FINANCING OF ZIIBIMIJSWANG, INC. AND OTHER ACTIVITIES**

- A. If funds are requested from the Tribe, Ziibimijwang, Inc. shall follow any laws, process or procedures in effect.
- B. Tribal Council approval is required for borrowing of funds. Ziibimijwang, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.
- C. Any lease of property, tangible or intangible, shall have Tribal Council's approval.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section VIII)

### **7.1109 DISSOLUTION CLAUSE**

In the event that the board is no longer fulfilling the purpose of this Statute, the corporation may be dissolved by repealing this Statute.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section IX)

#### **7.1110 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.

(Source: WOS 2014-005, Veto Override May 18, 2014, Section X)

#### **7.1111 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 2014-005, Veto Override May 18, 2014, Section XI)

## **Chapter 12. Repeal of WOS 2011-012, Odawa Fishery Incorporated Statute**

### **7.1201 FINDINGS AND REPEALED**

The entity of the Odawa Fishery, Inc. is no longer applicable to the current organization of the Little Traverse Bay Bands of Odawa Indians tribal government and WOS 2011-012, Odawa Fishery, Inc. along with its Corporate Charter are hereby repealed in its entirety.

(Source: WOS 2015-020, October 19, 2015, Section I)

### **7.1202 DISSOLUTION OF ASSETS**

All assets of the Corporation shall be distributed as follows:

1. Any property held upon an express condition requiring its return, transfer or other disposition shall be distributed accordingly;
2. Any property or assets required to be distributed or transferred in any manner according to federal law shall be distributed or transferred accordingly;
3. Tribal Council approves the payment for any claims of creditors and
4. Any remaining assets shall be transferred to the Tribe.

The Corporation shall distribute the assets and dissolve the Corporation within thirty (30) days of enactment of this Statute.

(Source: WOS 2015-020, October 19, 2015, Section II)

### **7.1203 EFFECTIVE DATE**

Effective upon signature of the Executive or shall be deemed enacted if not expressly

vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2015-020, October 19, 2015, Section III)

## Chapter 13. Odawa Construction Administration Holding Corporation

### 7.1301 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Odawa Construction Administration Corporation Statute.”

(Source: WOS 2018-009, July 2, 2018, Section I)

### 7.1302 DEFINITIONS

**A.** “*Gaming Commercial Enterprises*” means the Odawa Casino Resort and ancillary enterprises and activities, including the Odawa Casino Resort, related hotel and restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

**B.** “*Non-gaming Economic Affairs*” means economic development enterprises and activities not related to the gaming commercial enterprises.

**C.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” 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.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

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

**E.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

**F.** “*Tribal Council*” means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal Council”.

(Source: WOS 2018-009, July 2, 2018, Section II)

### **7.1303 CREATION OF THE ODAWA CONSTRUCTION ADMINISTRATION, INC. CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named the “Odawa Construction Administration, Inc.” The organization is recognized by the approval of the tribal corporation charter; “Odawa Construction Administration, Inc.” by Tribal Council.

(Source: WOS 2018-009, July 2, 2018, Section III)

### **7.1304 SCOPE OF ACTIVITIES**

**A.** The Odawa Construction Administration, Inc. is created as a general purpose holding company that promotes economic self-sufficiency through governmental contracts and other contracts in the area of Construction and creates jobs through its non-gaming enterprises, joint ventures and investments.

**B.** The Odawa Construction Administration, Inc. is authorized to create operating subsidiaries in accordance with tribal law, provided that they have prior approval by Tribal Council.

C. The Corporation will provide Tribal Council an annual report and audited financial statements.

D. The Corporation will submit an annual development plan to the Tribal Council for approval.

(Source: WOS 2018-009, July 2, 2018, Section IV)

### **7.1305 MANAGEMENT; STRUCTURE AND FUNCTION**

A. The Odawa Construction Administration, Inc. shall have sole authority and responsibility for managing the Odawa Construction Administration, Inc. and related non-gaming enterprise, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

B. The Odawa Construction Administration, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

C. It is the duty of the Odawa Construction Administration, Inc. to protect assets of the Tribe and generate revenues.

(Source: WOS 2018-009, July 2, 2018, Section V)

### **7.1306 REPORTING TO TRIBAL COUNCIL**

In order to regulate, the Odawa Construction Administration, Inc. shall provide to Tribal Council a monthly profit and loss statement for the Corporation and all subsidiaries; and shall report at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, at least quarterly or as requested the following:

A. Annual operating plan;

B. Financial performance measures;

- C. Audits, whether internal or external;
- D. Financial records or statements;
- E. Tribal Council may request reports regarding all aspects of the Odawa Construction Administration, Inc.
- F. Profit and loss statement of all non-gaming enterprises, joint ventures and investments.

(Source: WOS 2018-009, July 2, 2018, Section VI)

#### **7.1307 FINANCING OF THE ODAWA CONSTRUCTION ADMINISTRATION, INC. AND ACTIVITIES**

- A. The annual budget for the Odawa Construction Administration, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.
- B. Tribal Council approval is required for borrowing of funds. The Odawa Construction Administration, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2018-009, July 2, 2018, Section VII)

#### **7.1308 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.

(Source: WOS 2018-009, July 2, 2018, Section VIII)



### **7.1309 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 2018-009, July 2, 2018, Section IX)

## Chapter 14. Odawa Construction Corporation

### 7.1401 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Odawa Construction Corporation Statute.”

(Source: WOS 2018-014, August 15, 2018, Section I)

### 7.1402 DEFINITIONS

**A.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” 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.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

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

**C.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

“*Tribal Council*” means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII.

“Tribal Council”.

(Source: WOS 2018-014, August 15, 2018, Section II)

#### **7.1403 CREATION OF THE ODAWA CONSTRUCTION CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named the “Odawa Construction, Inc.” The organization is recognized by the approval of the tribal corporation charter; “Odawa Construction, Inc.” by Tribal Council.

(Source: WOS 2018-014, August 15, 2018, Section III)

#### **7.1404 SCOPE OF ACTIVITIES**

**A.** The Odawa Construction, Inc. is created as a tribally chartered corporation that promotes economic self-sufficiency and creates jobs through construction of tribally owned projects or local projects within the community.

**B.** The Odawa Construction, Inc. is authorized to create operating subsidiaries in accordance with tribal law, provided that they have prior approval by Tribal Council.

**C.** The Corporation will provide Tribal Council an annual report and audited financial statements.

**D.** The Corporation will submit an annual development plan to the Tribal Council for approval.

(Source: WOS 2018-014, August 15, 2018, Section IV)

#### **7.1405 MANAGEMENT, STRUCTURE AND FUNCTION**

**A.** The Odawa Construction, Inc. shall have sole authority and responsibility for managing the Odawa Construction, Inc. and related construction projects, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

**B.** The Odawa Construction, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

**C.** It is the duty of the Odawa Construction, Inc. to protect assets of the Tribe and generate revenues and jobs.

(Source: WOS 2018-014, August 15, 2018, Section V)

#### **7.1406 REPORTING TO TRIBAL COUNCIL**

In order to regulate, the Odawa Construction, Inc. shall provide to Tribal Council a monthly report for the Corporation and all subsidiaries; and shall report quarterly at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, or as requested the following:

**A.** Annual operating plan;

**B.** Financial performance measures;

**C.** Audits, whether internal or external;

**D.** Financial records or statements;

**E.** Tribal Council may request reports regarding all aspects of the Odawa Construction, Inc.;

**F.** Monthly profit and loss statement of all non-gaming enterprises, joint ventures and investments.

(Source: WOS 2018-014, August 15, 2018, Section VI)

#### **7.1407 FINANCING OF THE ODAWA CONSTRUCTION, INC. AND ACTIVITIES**

**A.** The annual budget for the Odawa Construction, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.

**B.** Tribal Council approval is required for borrowing of funds. The Odawa Construction, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2018-014, August 15, 2018, Section VII)

#### **7.1408 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.

(Source: WOS 2018-014, August 15, 2018, Section VIII)

#### **7.1409 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 2018-014, August 15, 2018, Section IX)

## Chapter 15. Odawa Economic Affairs Holding Corporation

### 7.1501 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Odawa Economic Affairs Holding Corporation Statute.”

(Source: WOS 2018-015, August 15, 2018, Section I)

### 7.1501 DEFINITIONS

**A.** “*Gaming Commercial Enterprises*” means the Odawa Casino Resort and ancillary enterprises and activities, including the Odawa Casino Resort, related hotel and restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian Gaming Regulatory Act.

**B.** “*Non-gaming Economic Affairs*” means economic development enterprises and activities not related to the gaming commercial enterprises.

**C.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” 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*

**D.** *and fourth' of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

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

**F.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

**G.** “*Tribal Council*” means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal Council”.

(Source: WOS 2018-015, August 15, 2018, Section II)

#### **7.1503 CREATION OF THE ODAWA ECONOMIC AFFAIRS HOLDING, INC. CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named the “Odawa Economic Affairs Holding, Inc.” The organization is recognized by the approval of the tribal corporation charter; “Odawa Economic Affairs Holding, Inc.” by Tribal Council.

(Source: WOS 2018-015, August 15, 2018, Section III)

#### **7.1504 SCOPE OF ACTIVITIES**

**A.** The Odawa Economic Affairs Holding, Inc. is created as a general purpose holding company that establishes uniformity amongst the designated Tribally Chartered Corporations and LLCs by providing auditing services, reporting requirements, meeting policy and procedures, negotiating fire and utility services, insurance coverages, and other administrative services.

**B.** The Odawa Economic Affairs Holding, Inc. is authorized to create operating subsidiaries in accordance with tribal law, provided that they have prior approval by Tribal Council.

C. The Corporation will provide Tribal Council an annual report and audited financial statements.

D. The Corporation will submit an annual development plan to the Tribal Council for approval.

(Source: WOS 2018-015, August 15, 2018, Section IV)

#### **7.1505 MANAGEMENT; STRUCTURE AND FUNCTION**

A. The Odawa Economic Affairs Holding, Inc. shall have sole authority and responsibility for managing the Odawa Economic Affairs Holding, Inc. and designated non-gaming enterprises and tribally chartered corporations, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

B. The Odawa Economic Affairs Holding, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

C. It is the duty of the Odawa Economic Affairs Holding, Inc. to protect assets of the Tribe and generate revenues.

(Source: WOS 2018-015, August 15, 2018, Section V)

#### **7.1506 REPORTING TO TRIBAL COUNCIL**

In order to regulate, the Odawa Economic Affairs Holding, Inc. shall provide to Tribal Council a monthly report for the Corporation and all subsidiaries; and shall report quarterly at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, or as requested the following:

A. Annual operating plan;

B. Financial performance measures;



- C. Audits, whether internal or external;
- D. Financial records or statements;
- E. Tribal Council may request reports regarding all aspects of the Odawa Economic Affairs Holding, Inc.;
- F. Profit and loss statement of all designated tribally chartered corporations, non-gaming enterprises, joint ventures and investments.

(Source: WOS 2018-015, August 15, 2018, Section VI)

#### **7.1507 FINANCING OF THE ODAWA ECONOMIC AFFAIRS HOLDING, INC. AND ACTIVITIES**

- A. The annual budget for the Odawa Economic Affairs Holding, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.
- B. Tribal Council approval is required for borrowing of funds. The Odawa Economic Affairs Holding, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2018-015, August 15, 2018, Section VII)

#### **7.1508 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.

(Source: WOS 2018-015, August 15, 2018, Section VIII)

### **7.1509 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 2018-015, August 15, 2018, Section IX)

## Chapter 16. Odawa Aviation Corporation

### 7.1601 PURPOSE AND TITLE

**A. Purpose.** The Little Traverse Bay Bands of Odawa Indians (the “Tribe”) exercises powers of self-government over its Citizens and territory. In accordance with Article VII (D) (4), the purpose of this Statute is to govern the issuance of the Little Traverse Bay Bands of Odawa Indians charter of incorporation for economic purpose, to provide for the management of the non-gaming, economic affairs and to delegate such management to a Tribally chartered corporation in accordance with Article VII (D) (24) and regulate such tribally chartered corporation activities in accordance with Article VII (D) (4).

**B. Short Title.** This Statute shall be known and cited as the “Odawa Aviation Corporation Statute.”

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section I)

### 7.1602 DEFINITIONS

**A.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” 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.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

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

**C.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

**D.** “*Tribal Council*” means the elected body of nine (9) Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal Council”.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section II)

#### **7.1603 CREATION OF THE ODAWA AVIATION CORPORATE CHARTER**

**A.** A tribally chartered corporation is authorized by this Statute and shall be named the “Odawa Aviation, Inc.” The organization is recognized by the approval of the tribal corporation charter; “Odawa Aviation, Inc.” by Tribal Council.

**B.** The tribally chartered corporation, Aviation Inc., shall be managed by a board of three (3) to five (5) members selected and appointed by majority vote of Tribal Council.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section III)

#### **7.1604 SCOPE OF ACTIVITIES**

**A.** The Odawa Aviation, Inc. is created as a tribally chartered corporation that creates jobs in the area of economic development and general business.

**B.** The Odawa Aviation, Inc. is authorized to create operating subsidiaries in accordance with tribal law, provided that they have prior approval by Tribal Council.

**C.** The Corporation will provide Tribal Council an annual report and audited financial statements.

**D.** The Corporation will submit an annual development plan to the Tribal Council for approval.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section IV)

#### **7.1605 MANAGEMENT; STRUCTURE AND FUNCTION**

**A.** The Odawa Aviation, Inc. shall have sole authority and responsibility for managing the Odawa Aviation, Inc. and related Aviation projects, in accordance with the policies, Statutes, Resolutions, regulations as approved by Tribal Council.

**B.** The Odawa Aviation, Inc. shall abide by all tribal and federal laws and regulations as may be applicable.

**C.** It is the duty of the Odawa Aviation, Inc. to protect assets of the Tribe and generate revenues and jobs.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section V)

### **7.1606 REPORTING TO TRIBAL COUNCIL**

In order to regulate, the Odawa Aviation, Inc. shall provide to Tribal Council a monthly report for the Corporation and all subsidiaries; and shall report quarterly at the regularly scheduled Tribal Council Meetings or such special meetings as requested by the Tribal Council, or as requested the following:

**A.** Annual operating plan;

**B.** Financial performance measures;

**C.** Audits, whether internal or external;

**D.** Financial records or statements;

**E.** Tribal Council may request reports regarding all aspects of the Odawa Aviation, Inc.;

**F.** Monthly profit and loss statement of all non-gaming enterprises, joint ventures and investments.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section VI)

## **7.1607 FINANCING OF THE ODAWA AVIATION, INC. AND ACTIVITIES**

**A.** The annual budget for the Odawa Aviation, Inc. shall be approved by Tribal Council in accordance with an approval process as designated by the Tribal Council.

**B.** Tribal Council approval is required for borrowing of funds. The Odawa Aviation, Inc. is not authorized to enter into financing approval without prior ratification by the Tribal Council.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section VII)

## **7.1608 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.

(Source: WOS 2018-017, October 2, 2018, by Veto Override, Section VIII)

## **7.1609 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 2018-017, October 2, 2018, by Veto Override, Section IX)

## **Chapter 17. American Indigenous Sovereign Funds, Inc.**

### **7.1701 SHORT STATUTE**

This Statute may be cited as the “American Indigenous Sovereign Funds, Inc.”

(Source: WOS 2019-001, February 22, 2019, Section I)

### **7.1702 PURPOSE**

The purpose of this Statute is to enable the receipt and processing of funds derived from state and/or Tribal legalized marijuana sales.

(Source: WOS 2019-001, February 22, 2019, Section II)

### **7.1703 DEFINITIONS**

**A.** “Little Traverse Bay Bands of Odawa Indians 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).

**B.** “State” means any state within the jurisdiction of the United States of America.

**C.** "Reservation" means all lands within the boundaries of the reservations for Little Traverse as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse reservation by the Department of the Interior. “State” means any state within the jurisdiction of the United States of America.

**D.** “Tribe” means federally recognized Tribe within the jurisdiction of the United States of

America.

**E.** "Tribal Citizen" means any person enrolled with the Tribe.

**F.** "Tribal Court" means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

(Source: WOS 2019-001, February 22, 2019, Section III)

#### **7.1704 JURISDICTION**

Little Traverse Bay Bands of Odawa Indians Tribal Court shall have exclusive jurisdiction over all actions arising with the Little Traverse Bay Bands of Odawa Indians jurisdiction.

(Source: WOS 2019-001, February 22, 2019, Section IV)

#### **7.1705 CREATION OF THE AMERICAN INDIGENOUS SOVEREIGN FUNDS, INC. CORPORATE CHARTER**

A tribally chartered corporation is authorized by this Statute and shall be named the "American Indigenous Sovereign Funds, Inc." The organization is recognized by the approval of the tribal corporation charter; "American Indigenous Sovereign Funds, Inc." by Tribal Council.

(Source: WOS 2019-001, February 22, 2019, Section X)

#### **7.1706 BOARD OF DIRECTORS**

**A.** The board of directors shall consist of three (3) to five (5) Tribal Citizens appointed by Tribal Council.

**B.** Up to two (2) ex-official board members may be appointed by the board, as needed.

(Source: WOS 2019-001, February 22, 2019, Section IV)



### **7.1707 SCOPE OF ACTIVITIES**

- A.** The American Indigenous Sovereign Funds, Inc. is created as a general-purpose financial services company that will process financial transactions for entities doing business within the Little Traverse Bay Bands of Odawa Indians Reservation or any state within the jurisdiction of the United States of America.
- B.** The Corporation will establish and ensure that all financial transactions are legitimate and shall develop a process to identify, report and deter money laundering activities.
- C.** Monthly, the Corporation will provide Tribal Council a profit and loss statement.
- D.** The Corporation will provide Tribal Council an annual report and audited financial statements.

(Source: WOS 2019-001, February 22, 2019, Section VII)

- E.** The Corporation will submit an annual strategic plan to the Tribal Council for approval.

### **7.1708 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 2019-001, February 22, 2019, Section VIII)

### **7.1709 EFFECTIVE DATE**

Effective upon signature of the Executive or 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 2019-001, February 22, 2019, Section IX)

## Chapter 18. Tribally Accepted Accounting Practice Statute

*Codification Note: Repeals and Replaces 2019-002.*

### 7.1801 PURPOSE

The purpose of this statute is to protect Tribal assets controlled by Tribally chartered corporations, Limited Liability Companies (Member Managed or Manager Managed), enterprises, businesses, companies, which includes any and all sub-entities, that are wholly owned or majority owned by the Tribe, in order to standardize accounting practices and reporting requirements. This Statute does not apply to the Tribal governmental accounting and practices. This Statute repeals and replaces WOS 2019-002.

(Source: WOS 2021-002, April 26, 2021, Section I)

### 7.1802 DEFINITIONS

- A.** “*Balance sheet*” means a financial statement that presents an organized list of assets, liabilities and equity at a particular point in time.
- B.** “*Board*” means the authorized and governing entity, wholly or majority owned by the tribe, including Tribally Chartered Corporations, Limited Liability Companies (Member Managed or Manager Managed), enterprises, businesses, companies, and includes all sub-entities.
- C.** “*Capital Expenditure*” (CAPEX) means funds used to acquire, upgrade, and maintain physical assets such as property, industrial buildings, or equipment.
- D.** “*Generally Accepted Accounting Principles*” (GAAP) means a body of standards having both broad and specific guidelines companies follow when measuring and reporting information in their financial statements and related notes and which are established by the Financial Accounting Standards Boards (FASB).

**E.** “*Gift*” means property, money or assets that a person transfers to another while receiving nothing or less than fair market value in return.

**F.** “*Income Statement*” means the financial statement that reports revenues, expenses, gains, and losses for a particular reporting period.

**G.** “*Operating Capital*” means the funds required for running the daily operations of the company.

**H.** “*Political Contributions*” means any funds, service or other means that benefits any campaigns initiative, referendum, recall, petition or other election related activities.

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

(Source: WOS 2021-002, April 26,2021, Section II)

## **7.1803 APPLICATION**

The following will apply to all Tribally chartered corporations, companies and other Tribal sub-entities:

**A.** The utilization of General Accepted Accounting principles (GAAP) is required.

**B.** The designation of the following mandatory accounts, along with their purpose, requirements and restrictions:

**1.** Tribal distributions.

**a.** Profits above the maximum amount set for operating capital will be transferred to a Tribal Revenue account monthly.

**b.** On a quarterly basis, any balance of the Tribal Revenue account shall be transferred to the Tribe, unless otherwise approved by Tribal Council.

- 2. CAPEX.**
  - a.** On a yearly basis, each board shall determine CAPEX use and amounts for each site or operation.
  - b.** Any additional revenues utilized for CAPEX shall require board approval prior to funds being used.
  - c.** If funds are utilized for any other purpose than the original annual determination of CAPEX, Tribal Council shall be notified of the variance of the use and/or amounts.
  - d.** If there is more than one site or operation, each site or operation shall have a separate CAPEX account.
  
- 3. Operating capital.**
  - a.** Operating capital consists of investments and cash not in other required account.
  - b.** The Board shall establish the minimum and maximum level for the account annually. Such minimum and maximum levels shall be reported to Tribal Council. The Board, in its discretion, may modify the minimum and maximum levels. Any modifications to the levels shall be reported to Tribal Council.
  - c.** Any amount of funds over the maximum shall be transferred to the Tribal Revenue account monthly.
  - d.** Any amount of funds less than the amount approved by the Board shall require Tribal Council notification.
  
- 4. Profit funded construction.**
  - a.** Any construction project requires approval of the Board.
  - b.** The Board shall appropriate funding required for the project and shall notify Tribal Council of the project and the funding amount and source.
  - c.** Any payments made in conjunction with the project shall require a designated Board member(s) signature.

5. Loan funded or Tribal Council appropriated funded construction.
  - a. Any construction project requires approval of the Board.
  - b. The Board shall notify Tribal Council of a loan funded project or if it is a Tribal Council appropriated funded construction, then the Board will provide Tribal Council monthly updates on expenditures.
  - c. Any payments made in conjunction with the project shall require a designated Board member(s) signature or a loan officer's signature.
  
6. Gifts and bonuses.
  - a. All bonuses shall be approved by the Board.
  - b. Any gifts or bonuses in the amount of one thousand dollars (\$ 1 ,000.00) or more shall have Board approval and Tribal Council shall be notified as to the nature and amount of the gift or bonus.
  - c. Any Political Contributions require TC notification

**C. Statements.**

1. Monthly, each Board shall submit to Tribal Council an unaudited Income Statement along with a balance statement. This will be a separate document titled “Income Statement”. The following shall be included in the document:
  - a. Financial Notes are to include:
    - i. Appropriations
    - ii. Loans and interest rates
    - iii. Tribal Council requires notifications
    - iv. Land holdings and acquisitions
    - v. Lease holdings
    - vi. Tribal Council requires notifications

**2.** Annually, each board shall submit to Tribal Council a detailed Profit and Loss Statement along with a balance statement.

**a.** Financial Notes are to include:

- i.** Appropriations
- ii.** Loans and interest rates
- iii.** Tribal Council requires notifications
- iv.** All bonuses
- v.** All construction and capital expenditures with source of capital
- vi.** Payments to Board members
- vii.** Gifts
- viii.** Bonuses

**3.** Each Board shall prepare an annual report that includes a summary overview and financial statements that will be presented to the Tribal Membership at the Tribe's Annual Meeting.

**4.** All Financial obligations and interest rates of a Board shall be reported to Tribal Council annually at the beginning of each Fiscal Year. Financial obligations include the following:

- a.** Any guarantee of debt or pledge, such as loans, lines of credit or other credit arrangements with private lenders or commercial banks;
- b.** Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;
- c.** Letters of credit issued in connection with variable rate debt issuance;
- d.** Interest rate swaps entered into in connection with debt issuance.

**D.** The following applies to all Boards:

1. The Legislative Office of Finance and Revenue shall have access to all financial books and accounts of all Boards with “read only permission” access.
2. Any Loan applications made by Boards for seven-hundred and fifty thousand dollars (\$750,000.00) or more shall require Tribal Council approval, unless otherwise indicated by separate resolution, statute or charter. Any Loan applications where the interest rate is eight percent (8%) or more shall require Tribal Council approval unless otherwise indicated by separate resolution, statute or charter.
3. Grant applications. Unless otherwise indicated by statute, any grant application made by Boards shall require notice to Tribal Council. Grant applications for one-hundred thousand (\$100,000.00) or more, shall require Tribal Council approval.
4. All Financial obligations and interest rates of a Board shall be reported to Tribal Council annually at the beginning of each Fiscal Year. Financial obligations include the following:
  - a. Any guarantee of debt or pledge, such as loans, lines of credit or other credit arrangements with private lenders or commercial banks;
  - b. Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;
  - c. Letters of credit issued in connection with variable rate debt issuance;
  - d. Interest rate swaps entered into in connection with debt issuance.

**E. Gaming related Boards have the following requirements:**

1. Establish separate CAPEX accounts for each site.
2. Establish separate financial statements and books for each site.
3. No form of free play may ever be used as revenue or win/unit/day accounting.



4. Monthly report shall include, but not limited to:
  - a. Slot revenue at each
  - b. Number of slots at each site
  - c. Win/unit/day at each site
  
5. Transfers from one set of books to another require Board approval and cannot be reversed without notification to Tribal Council.

(Source: WOS 2021-002, April 26, 2021, Section III)

#### **7.1804 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 2021-002, April 26, 2021, Section IV)

#### **7.1805 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 2021-002, April 26, 2021, Section V)

## Chapter 19. Hemp Authorization and Regulatory Commission Statute

### 7.1901 PURPOSE

The purpose of this Statute is to authorize the regulating of Hemp, and create the Hemp Regulatory Commission that will license, regulate, inspect and have enforcement regulatory power for Hemp Operations and repeals and replaces WOS 2019-013 and any previous Statutes including WOS 2019-008.

(Source: WOS 2020-015, May 30, 2020, Section I)

### 7.1902 DEFINITIONS

A. *“Acceptable Hemp THC Level”* means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The Acceptable Hemp THC Level for the purpose of compliance with the requirements of State, Tribal, or USDA hemp plans is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for the purpose of plan compliance. This definition of “Acceptable Hemp THC Level” affects neither the statutory definition of hemp, 7 U.S.C. § 1639o (1), in the 2018 Farm 121 Bill nor the definition of “marihuana,” 21 U.S.C. § 802(16), in the federal Controlled Substances Act. (“CSA”).

B. *“Act”* means the Agricultural Marketing Act of 1946.

C. *“Applicant”* means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the industrial Hemp program.

- D.** “*Cannabis*” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.
- E.** “*CBD*” means cannabidiol.
- F.** “*Certified seed*” means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.
- G.** “*Commission*” means the Hemp Regulatory Commission which is comprised of three to five appointed officials, and duly authorized staff exercising delegated authority of the Commission.
- H.** “*Controlled Substances Act*” (“CSA”) means the Controlled Substances Act as codified in 21 U.S.C. 801 *et seq.*
- I.** “*Conviction*” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of this Statute, a conviction is expunged when the conviction is removed from the individual’s criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of this Statute.
- J.** “*Corrective Action Plan*” means a plan established pursuant to this Statute for a licensed hemp Producer to correct a negligent violation or non-compliance with a hemp production plan and/or 7 C.F.R. Part 990.
- K.** “*Criminal History Report*” means the Federal Bureau of Investigation’s Identity History

Summary.

**L.** “*Culpable mental state greater than negligence*” means to act intentionally, knowingly, willfully, or recklessly.

**M.** “*DEA*” means the United States Drug Enforcement Administration

**N.** “*Decarboxylated*” means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

**O.** “*Delta-9-THC*” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

**P.** “*Directly related to*” means immediate family relations as defined in the Tribe's Constitution or any other statute defining nepotism.

**Q.** “*Dry Weight Basis*” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

**R.** “*Entity*” means corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

**S.** “*Farm Service Agency*” or “*FSA*” means an agency of the United States Department of Agriculture.

- T.** “*Financial Interest*” is a person or entity that has more than a five (5) percent interest, share or ownership in an operation(s).
- U.** “*Geospatial location*” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.
- V.** “*GPS*” means Global Positioning System.
- W.** “*Grower licensing agreement*” means a document executed by a person and the Commission authorizing the person to grow, handle, and store Hemp at one (1) or more specified locations.
- X.** “*Handle*” means to harvest or store hemp or hemp plant parts prior to the delivery of such plants or plant parts for further processing. "Handle" also includes the disposal of cannabis plants that are not hemp for purposes of chemical analysis and disposal of such plants.
- Y.** “*Harvest Lot*” means a quantity of Hemp, of the same Variety, harvested in a distinct timeframe that is cultivated in one contiguous production area of a field, greenhouse or indoor growing structure containing the same variety or strain of cannabis throughout the area.
- Z.** “*Harvest Lot Identifier*” means a unique identifier used by the Commission to identify the Harvest Lot.
- AA.** “*Hemp*” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
- BB.** “*Hemp Crop*” means one (1) or more unprocessed Hemp plants or plant parts.
- CC.** “*High performance liquid chromatography*” or “*HPLC*” means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid absorbent material to separate and analyze compounds.

**DD.** “*Industrial Hemp products*” means products derived from, or made by, processing industrial Hemp plants or plant parts.

**EE.** “*Information sharing system*” means the database mandated under the Act which allows USDA to share information collected under State, tribal and USDA plans with Federal, State, Tribal and local law enforcement.

**FF.** “*Key participants*” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

**GG.** “*Law enforcement agency*” means the Little Traverse Bay Bands of Odawa Indians Tribal Police, *Drug Enforcement Administration* (DEA), or other federal law enforcement agency or drug suppression unit having jurisdiction.

**HH.** “*Location*” or “*Land*” means the particular land, building or buildings where Hemp will be grown, handled, stored, or processed, which can include a field name or building name.

**II.** “*Location ID*” means the unique identifier established by the applicant for each unique set of GPS coordinates or Geospatial location where Hemp will be grown, handled, stored, or processed, which can include legal description, a field name or building name.

**JJ.** “*Marijuana*” or “*marihuana*” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The term ‘marihuana’ does not include hemp, as defined in section 297A of the Agricultural Marketing Act of 1946, and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of

germination (7 U.S.C. 1639o). “*Marihuana*” means all cannabis that tests as having a concentration level of THC on a dry weight basis of higher than 0.3 percent.

**KK.** “*Measurement of Uncertainty*” or “*MU*” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

**LL.** “*Negligence*” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Statute, the Act or 7 CFR Part 990.

**MM.** “*Nonviable seed*” means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

**NN.** “*Person*” means an individual or business entity.

**OO.** “*Pesticide*” means any substance or mixture of substances intended to:

1. Prevent, destroy, control, repel, attract, or mitigate any pest.
2. Be used as a plant regulator, defoliant, or desiccant. or
3. Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.

**QQ.** “*Phytocannabinoid*” means cannabinoid chemical compounds found in the cannabis plant, two of which are Delta-9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).

**RR.** “*Postdecarboxylation*” means, in the context of testing methodologies for THC concentration levels in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THC-A to calculate total potential

THC in a given sample. See the definition for decarboxylation.

**SS.** “*PPM*” means parts per million.

**TT.** “*Pre-harvest sample*” means a composite, representative portion from plants in a Hemp lot collected in accordance with the procedures as established by the Commission and federal law.

**UU.** “*Produce*” means to grow hemp plants for market, or for cultivation for market, pursuant to this Statute.

**VV.** “*Producer*” means a Producer as defined in 7 CFR 718.2 that is licensed or authorized to produce hemp under this Statute and 7 CFR Part 990, specifically, "an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A Producer includes a grower of hybrid seed."

**WW.** “*Prohibited variety*” means a variety or strain of cannabis excluded by the Commission.

**XX.** “*Program*” means the Commission’s Industrial Hemp Program.

**YY.** “*Propagule*” means a plant or plant part that can be utilized to grow a new plant.

**AAA.** “*Reverse Distributor*” means a person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

**BBB.** “*Seed source*” means the origin of the seed or propagules as determined by the Commission.

**CCC.** “*Signing authority*” means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

**DDD.** “*Territory of the Tribe*” has the same meaning as “Indian Country” in 18 U.S.C. 1151.



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

**FFF.** “*Tribal Police*” or “*Tribal Law Enforcement*” shall mean the Little Traverse Bay Bands of Odawa Indians Tribal Police Department.

**GGG.** “*Tribal Council*” means the Legislative body of the Little Traverse Bay Bands of Odawa Indians (LTBB).

**HHH.** “*Tribal Court*” means the LTBB Court created under Article IX of the LTBB Constitution.

**III.** “*Variety*” means a subdivision of a species that is:

1. Uniform, in the sense that the variations in essential and distinctive characteristics are describable.
2. Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties. and
3. Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

**JJJ.** “*Variety of concern*” means any variety of Hemp in the Commission’s program that tests above 3,000 ppm or 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A Hemp variety designated as a “variety of concern” could be subject to restrictions and additional testing.

**KKK.** “*Volunteer cannabis plant*” means any cannabis plant that grows of its own accord from

seeds or roots in the years following an intentionally planted cannabis crop. and is not intentionally planted.

(Source: WOS 2020-015, May 30, 2020, Section II)

### **7.1903 HEMP AUTHORIZED**

This Statute authorizes the Production and Handling of Hemp within locations within the Territory of the Tribe.

(Source: WOS 2020-015, May 30, 2020, Section III)

### **7.1904 HEMP REGULATORY COMMISSION**

**A.** The Tribe hereby establishes a Hemp Regulatory Commission as an Executive Commission whose duty it is to regulate Hemp operations. The Commission shall consist of at least three (3) but not more than five (5) persons. 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 purpose of the Commission is to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for Hemp Production within the Territory of the Tribe. The Commission shall have authority to take all actions authorized by this Statute. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of a Hemp operation and to all records. The Commission shall have authority to take enforcement actions as authorized by this Statute.

**C.** The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated Hemp operation. The Commission shall be and act independently, and autonomously from the Tribal Council in all individual licensing decisions. No prior or subsequent review by the Tribal Council of any licensing and fining actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Statute. To avoid potential conflicts of interest between an operation and regulation of the Hemp facility, the Tribe

hereby finds that, at a minimum:

1. No member of the Tribal Council may serve on the Commission.
  2. No person with a financial interest in a Hemp Producer shall serve on the Commission.
  3. The following persons are ineligible to serve on the Commission: employees of any Hemp producer or persons directly related to or sharing a residence with any Hemp Producer.
- D.** 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) people appointed by the Tribal Council and shall be licensed.
  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.
- E.** The Commission shall:
1. Approve the permitting of a “Location” or “Land”.
  2. Ensure that Criminal History checks are conducted in accordance with this Statute and federal law.
  3. Make suitability determinations, which shall be signed by a majority of the Commissioners present when the license is approved.

4. Issue Hemp licenses to Hemp Producers, consistent with the suitability determination.
5. Inspect, examine and monitor all Hemp Producers, and have immediate access to review, inspect, examine, photocopy and audit all Hemp related records of any Hemp Producer.
6. Ensure compliance with all Tribal and Federal laws, rules, and regulations regarding Hemp.
7. Investigate any suspicion of wrongdoing associated with any Hemp activities, and report any potential criminal violations to Tribal Law Enforcement and federal authorities as required by this Statute.
8. Promulgate and issue regulations on the levying of fees associated with Hemp license applications.
9. Promulgate and issue regulations on suspension or revocation of Hemp licenses for violations of this Statute, or any other Tribal, Federal, or (if applicable) State Hemp regulations, as set forth in this Statute.
10. Perform such other duties the Commission deems appropriate for the proper regulation of the Hemp operation, consistent with federal law.
11. The Commission shall be authorized to employ such staff and/or consultants as reasonably may be required to fulfill its responsibilities under this Statute.
12. The Commission shall ensure that all records and information obtained as a result of a background investigation or criminal history check shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process.

**G.** The Commission shall collect, and retain for a period of at least three calendar years, Location ID information for every site or location where the Commission has approved Hemp to be grown.

**H.** The Commission shall issue hemp licenses authorized by this Statute, consistent with the suitability determination, and shall assign each producer with a license or authorization identifier in a format prescribed by USDA.

**I.** Removal. Members of the Commission can only be removed by a majority vote of Tribal Council.

**J.** A majority of the sitting members 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.

**K.** The Commission shall keep a written record of all its regularly scheduled, special, and emergency meetings, and licensing hearings and meetings.

**J.** All regulations promulgated under this Statute shall be submitted to Tribal Council for approval.

(Source: WOS 2020-015, May 30, 2020, Section IV)

## **7.1905 LICENSING APPLICATION**

**A.** Producer License Application.

**1.** Any person who wishes to produce Hemp at any location within the Territory of the Tribe shall submit to the Commission a completed License Application no less than once every three (3) years.

**2.** A person who does not hold a license from the Commission shall not Produce

Hemp at any location within the Territory of the Tribe.

3. The Commission shall deny any Producer License Application that fails to meet the deadline established in the application.
4. Each Applicant shall pay an application fee in the amount established and approved by Tribal Council.
5. The Application shall include the following at a minimum:
  - i. Full name, residential address, telephone number, and email address, if an email address is available, of the Applicant.
  - ii. If the applicant represents a business entity:
    - a) the full name of the business;
    - b) the principal business location address;
    - c) the full name of the applicant who will have signing authority on behalf of the entity, and title, and email address if an email address is available, of the person;
    - d) the full names, addresses, phone numbers and email addresses (if available) of all owners, operators, landlords, tenants, or sharecroppers, who share in the risk of producing a hemp crop and who are entitled to share in the hemp crop available for marketing from the hemp growing operation, or who would have shared had the crop been produced;
    - e) the full names, addresses, telephone numbers and email addresses of all Key Participants of the business entity; and
    - f) the EIN of the business entity.
  - iii. Documentation showing either a valid tenancy, ownership or other legal interest in the proposed property.
  - iv. Street address, location ID, legal description and GPS coordinates or

Geospatial location for each field, greenhouse, building, or site where Hemp will be grown, handled, processed or stored.

- v. Information regarding any other Hemp growing or processing facility that is licensed in any other jurisdiction.

7. A current Criminal History Report for the Applicant/Producer, and for Applicants that are entities, all Key Participants, dated within 60 days prior to the application submission date. A license application will not be considered complete without all required Criminal History Reports.

8. A business plan and operations plan shall be included with the application that includes at a minimal the following:

- i. The proposed acreage or greenhouse or indoor square footage to be planted or used for processing.
- ii. A description of the type of facility proposed and the anticipated or actual number of employees. The name of the proposed Manager of the Facility.
- iii. A security plan which shall include a general description of the security systems(s) and lighting plan showing the outside lighting, and current centrally alarmed and monitored security system service agreements.
- iv. A list of pesticides, and other chemicals proposed for use.
- v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including assurances that no odor will be detected from outside the Location.
- vi. A statement of previous farming experience.
- vii. Planned source of seeds or propagules.

8. Any License Application that is missing required information shall be subject to denial.
9. The Commission shall notify applicants by letter or email whether the application has been denied or conditionally approved.
10. Producers and the Commission shall retain all information required by this Section V(A) for at least three (3) calendar years.

**B. Criminal History Reports.**

1. Each Applicant/Producer, and if the Applicant is an entity, persons with a financial interest in the applicant, and all Key Participants of the Applicant/Producer shall submit Criminal History Reports with the application.
2. The Criminal History Report shall consist of a current Federal Bureau of Investigation Identity History Summary.
3. The Criminal History Report shall be dated within sixty (60) days of the submission of the application material.
4. The Criminal History Report must indicate that the applicant shall not have had a felony conviction related to a controlled substance within the past ten (10) years.

(Source: WOS 2020-015, May 30, 2020, Section V)

**7.1906 LOCATION OR LAND PERMIT**

- A. A licensed Producer shall not plant or grow any cannabis that is not Hemp.
- B. A licensed Producer shall not plant or grow Hemp or other cannabis on any site not listed in the Producer licensing agreement.



- C.** A licensed Producer shall not grow Hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- D.** A licensed Producer shall not handle or store leaf or floral material from Hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- E.** Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the Commission.
- F.** A licensed Producer shall not plant Hemp or other cannabis plants in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing from the Commission.
- G.** A licensed Producer shall not grow Hemp or other cannabis in any outdoor field or site that is located within 1,000 feet of a school or a public recreational area.
- H.** An applicant or licensed Producer shall not include any property on his or her application or Site Modification Request, to grow or cultivate Hemp that is not owned or completely controlled by the applicant or licensed Producer.
- I.** A licensed Producer shall not grow, handle, or store Hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or was terminated, or denied a license.

(Source: WOS 2020-015, May 30, 2020, Section VI)

### **7.1907 APPEALS**

- A.** Any person who would like to challenge a denial of a license or a suspension of a license must request a hearing before the Commission, prior to an appeal being filed in Tribal Court. The Commission Hearing shall be open to the public and occur at a time and date and location designated by the Commission.

**B.** The Court shall uphold the decision of the Commission unless the Court determines that the Commission’s decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

(Source: WOS 2020-015, May 30, 2020, Section VII)

## **7.1908 PRODUCER LICENSING AGREEMENTS**

**A.** An applicant shall not be a participant in the Commission’s program until the conditionally approved applicant and the Commission have executed a Producer licensing agreement.

**B.** The agreement shall have a consent to entry onto, and inspection of, all premises where Hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the Commission and law enforcement agencies, with or without cause, with or without advance notice.

**C.** Consent to forfeiture and destruction, without compensation, of:

- 1.** Material found that exceeds the Acceptable Hemp THC Level.
- 2.** Hemp plants located in an area that is not licensed by the Commission
- 3.** Hemp plants not accounted for in required reporting to the Commission.

**D.** The Applicant agrees to apply for registration of all Hemp Production locations, including a legal description of the location, GPS coordinates or Geospatial location, and receive Commission approval for those locations prior to having Hemp on those premises.

**E.** The Applicant acknowledges that licensed Producers shall submit a Site Modification Request Form, the appropriate fees based on the requested changes, and obtain prior written approval from a representative of the Commission before implementing any change to the

licensed sites stated in the Producer licensing agreement, and that Hemp Production site changes shall be subject to a site modification surcharge.

**F.** The Applicant acknowledges that Hemp shall not be Produced in any location other than the location listed in the Producer licensing agreement.

**G.** The Applicant agrees not to interplant Hemp with any other crop.

**H.** The Applicant acknowledges that anyone applying pesticides to Hemp shall hold a pesticide license and apply pesticides in accordance with regulations or the agreement.

**I.** The Applicant acknowledges that licensed Producers shall comply with restrictions established by the Commission limiting the transportation of Hemp plants and plant parts.

**J.** The Applicant acknowledges that the risk of financial or other loss shall be borne solely by the licensed Producer.

**K.** The Applicant agrees that any time Hemp is in transit, a copy of the Producer licensing agreement, a copy of the pre-harvest test results that correspond to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp, a copy of the transport manifest that includes all information required to be documented by the Commission or the Tribe, and any other documentation that may be required by the Tribe, the Commission, or the USDA, shall be available for inspection upon the request of a representative of the Commission or a law enforcement agency.

**L.** The Applicant agrees that, upon request from a representative of the Commission or a law enforcement agency, a licensed Producer shall immediately produce a copy of his or her Producer licensing agreement for inspection.

**M.** The Applicant agrees to submit Planting Reports, Harvest/Destruction Reports, and Production Reports, and other reports required by the Commission or any federal authority, to which the Producer has agreed, on or before the deadlines established in this Statute.

**N.** The Applicant agrees to scout and monitor unregistered fields for volunteer cannabis plants and to destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the Commission.

**O.** The Applicant agrees not to employ or rent land to Produce Hemp from any person who was terminated or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable Criminal History Report; or
2. Failure to comply with an order from a representative of the Commission.

**P.** The Applicant agrees that land used for the Production of Hemp shall not be owned by or leased from any person who was terminated, or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable Criminal History Report or
2. Failure to comply with an order from a representative of the Commission.

**Q.** The Applicant agrees to notify the Commission of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) calendar days of the occurrence.

**R.** The Applicant agrees to notify the Commission of any theft of cannabis materials, whether growing or not.

**S.** Failure to agree or comply with terms and conditions established in the Producer licensing agreement shall constitute grounds for appropriate Commission action, up to and including termination of the Producer licensing agreement and expulsion from the Commission's program.

**T.** A person who has been expelled from the program shall not be eligible to reapply to the program for a period of five (5) years from the date of expulsion.

**U.** Failure to agree and sign the Producer licensing agreement shall terminate conditional approval and a licensing agreement shall not be executed.

(Source: WOS 2020-015, May 30, 2020, Section VIII)

## **7.1909 REGULATIONS FOR SAMPLING AND THC TESTING**

**A.** The Commission shall adopt Regulations for Sampling, Testing, and Post-Testing Actions consistent with this Statute, applicable federal law, and that contain the following, but not limited to:

1. Handling Procedures of Pre-Harvest Samples
2. Pre-Harvest Sampling Procedure
3. *A Harvest/Destruction Report* Form and Reporting consistent with federal law.
4. Time-frames and Producer Responsibilities.
5. Inspections and sample collection.
6. Process for harvested materials from Varieties of Concern.
7. Floral materials harvested for testing.
8. Notification and reporting consistent with federal law.
9. Equipment Used.
10. Selecting Samples for Testing

**B.** Any regulations promulgated or required in accordance with this Statute shall be consistent with applicable federal law, follow the Tribe's Administrative Procedures Act and be submitted to Tribal Council for approval. Any changes to the Tribal plan will be submitted to the USDA for approved, before implementation.

(Source: WOS 2020-015, May 30, 2020, Section IX)

#### **7.1910 SITE MODIFICATIONS AND SITE MODIFICATION SURCHARGE FEES**

- A.** A licensed Producer who elects to Produce Hemp on a site other than the sites specified by a legal description and the GPS coordinates or Geospatial location listed in the Producer licensing agreement shall submit a Site Modification Request Form, and obtain written approval from a representative of the Commission, prior to planting at the proposed location. The Commission shall report any location change to the FSA.
  
- B.** Any request for a new hemp production location shall comply with the land use restrictions.
  
- C.** The Commission shall charge a site modification surcharge fee for each new production location, be it an individual field or greenhouse or indoor structure, where Hemp will be planted.
  
- D.** The Commission shall not approve a site modification request for a new production location until the Commission has received the site modification surcharge fee.

(Source: WOS 2020-015, May 30, 2020, Section X)

#### **7.1911 SEED ACQUISITION WITHIN THE UNITED STATES**

- A.** A person shall not acquire seeds or propagules from a source within the United States without first:
  - 1.** Submitting a complete Domestic Seed/Propagule Request form, and
  - 2.** Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the Commission.
  
- B.** The Commission shall not approve a Domestic Seed/Propagule Request unless the

licensed Producer affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person.

**C.** A person submitting a Domestic Request form shall submit to the Commission documentation showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC content of not more than 3,000 ppm on a dry weight basis from an independent third-party laboratory.

**D.** A person submitting a Domestic Seed/Propagule Request form shall submit to the Commission documentation verifying the seed or propagule source as a current legal Hemp operation in the state of origin.

**E.** A person acquiring seeds or propagules shall arrange for the seeds or propagules to arrive at the Commission for inventory and distribution.

**F.** Upon request from a representative of the Commission, a licensed Producer shall provide a distribution list showing locations where and to whom the Hemp seeds were distributed following inventory at the Commission's facility.

(Source: WOS 2020-015, May 30, 2020, Section XI)

#### **7.1912 SEED ACQUISITION FROM A SOURCE OUTSIDE THE UNITED STATES**

**A.** A person seeking to obtain seeds from an international source shall submit a complete International Seed Request form to the Commission

**B.** Hemp seeds can be imported from Canada if accompanied by either:

- 1.** A phytosanitary certification from Canada's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected; or
- 2.** A Federal Seed Analysis Certificate for hemp seeds grown in Canada.

- C.** Importation of seeds from countries other than Canada shall be accompanied by a phytosanitary certificate from the exporting country's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected.
- D.** Hemp seed shipments may be inspected upon arrival at the first port of entry by Customs and Border Protection (CBP) to ensure USDA regulations are met, including certification and freedom from plant pests.
- E.** All licensed Producers intending to plant the requested seed shall be listed on the request form.
- F.** The Commission shall not approve an International Seed Request form unless the licensed Producer affirms in writing that the licensed Producer's planned activities shall not infringe on the intellectual property rights of any person.
- G.** A person submitting an International Seed Request form shall submit to the Commission documentation showing that mature plants grown from that seed variety have a floral material delta-9-THC content of not more than .3% on a dry weight basis.
- H.** A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the Commission's facility, for inventory and distribution.
- I.** Upon request from a representative of the Commission, a licensed producer shall provide a distribution list showing locations where and to whom the imported Hemp seeds were distributed following inventory at the Commission's facility.

(Source: WOS 2020-015, May 30, 2020, Section XII)

#### **7.1913 SEEDS OF WILD, LANDRACE, OR UNKNOWN ORIGIN**

- A.** A person shall not acquire or grow Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the



Commission.

**B.** The Commission shall not permit Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the Commission first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the Commission or its designee.

**C.** Any licensed Producer found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without advance written permission from the Commission shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

(Source: WOS 2020-015, May 30, 2020, Section XIII)

#### **7.1914 PLANTING REPORTS FOR OUTDOOR PLANTINGS**

**A.** A licensed Producer shall submit to the Commission a complete and current Field Planting Report, within fifteen (15) days after every planting, including replanting, of seeds or propagules in an outdoor location.

**B.** Each Field Planting Report shall identify the:

- 1.** Correct variety name as designated upon approval of the acquisition request or as approved by the Commission.
- 2.** Field location ID as listed in the Producer licensing agreement.
- 3.** Primary intended use of the harvest for each planting.

**C.** A licensed Producer who does not plant Hemp in an approved outdoor site listed in the Producer license agreement shall submit a Field Planting Report, on or before July 31, stating that Hemp has not and shall not be planted at that site.

(Source: WOS 2020-015, May 30, 2020, Section XIV)

### **7.1915 PLANTING REPORTS FOR INDOOR PLANTINGS**

- A.** A licensed Producer shall submit to the Commission a complete and current Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor location.
  
- B.** Each Greenhouse/Indoor Planting Report shall identify the:
  - 1.** Correct Hemp variety name as designated in the Domestic Seed/Propagule Request form or International Seed Request form and approved by the Commission.
  
  - 2.** Greenhouse or indoor growing location ID as listed in the Producer licensing agreement.
  
  - 3.** Primary intended use for the harvest of each planting.
  
- C.** In addition to the initial Greenhouse/Indoor Planting Report, a licensed Producer with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the Commission, such Reports shall be due no later than March 31, June 30, September 30, and December 31.

(Source: WOS 2020-015, May 30, 2020, Section XV)

### **7.1916 SITE ACCESS FOR REPRESENTATIVES OF THE COMMISSION, USDA AND LAW ENFORCEMENT AGENCIES**

- A.** The Commission shall provide information about approved growing, processing, handling, and storage site locations to Tribal Law Enforcement, USDA, DEA, and other law enforcement agencies whose representatives request registered site information, including legal description and GPS coordinates.

**B.** Licensed Producers shall have no reasonable expectation of privacy with respect to premises where Hemp or other cannabis seeds, plants, or materials are located, and any premises listed in the Producer licensing agreement.

**C.** A licensed Producer, whether present or not, shall permit a representative of the Commission or a law enforcement agency to enter into premises where Hemp or other cannabis seeds, plants, or materials are located and any premises listed in the Producer licensing agreement with or without cause and with or without advanced notice.

(Source: WOS 2020-015, May 30, 2020, Section XVI)

### **7.1917 PESTICIDE USE**

**A.** A licensed Producer who uses a pesticide on Hemp shall be certified to apply pesticides by the Commission regulations.

**B.** A licensed Producer who is certified to apply pesticides by the Commission shall not use, or be eligible to use pesticides to Hemp in violation of the product label.

**C.** A licensed Producer shall not use any pesticide in violation of the product label.

**D.** A licensed Producer who uses a pesticide on a site where Hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the Hemp.

**E.** The Commission may perform pesticide testing on a random basis or if representatives of the Commission have reason to believe that a pesticide may have been applied to Hemp in violation of the product label.

**F.** Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

(Source: WOS 2020-015, May 30, 2020, Section XVII)

## **7.1918 RESPONSIBILITY OF A LICENSED GROWER PRIOR TO HARVEST OF HARVEST LOTS; SAMPLING PROCEDURES**

- A.** The Commission may collect samples of any cannabis material prior to harvest at any time.
- B.** Within 15 days prior to the anticipated harvest of cannabis plants, a producer shall have an approved Federal, State, local law enforcement agency or other USDA designated person collect samples from the flower material of such cannabis material for delta-9 tetrahydrocannabinol concentration level testing.
- C.** The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in the Harvest lot would exceed the acceptable hemp THC level. The method used for sampling must ensure that a Representative sample is collected that represents a homogeneous composition of the Harvest lot. The Commission shall enact regulations governing sampling procedures that conform to USDA requirements.
- D.** During a scheduled sample collection, the Producer or an authorized representative of the Producer shall be present at the growing site.
- E.** Representatives of the Commission shall be provided with complete and unrestricted access to all Hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all Hemp and other cannabis plants. and all locations listed in the Producer license.
- F.** The licensed Producer shall not harvest the cannabis crop prior to samples being taken, and shall harvest the crop not more than fifteen (15) days following the date of sample collection.
- G.** Samples of hemp plant material from one Harvest lot shall not be commingled with hemp plant material from other Harvest lots.

**H.** Floral materials harvested for phytocannabinoid extraction shall not be moved outside the Territory of the Tribe, nor commingled, nor extracted, until the Commission releases the material in writing.

**I.** A licensed Producer who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by an approved Federal, State, local law enforcement agency or other USDA designated person shall be subject to revocation of his or her license and such other penalties authorized by this Statute and federal law.

(Source: WOS 2020-015, May 30, 2020, Section XVIII)

### **7.1919 THC TESTING**

**A.** Standard testing procedures are specified for samples taken in accordance with the Sampling Procedures for the USDA Hemp Program to measure the delta-9 tetrahydrocannabinol (THC) concentration levels of those samples on a dry weight basis. The THC testing procedures shall be in accordance with USDA guidelines, and shall be adopted by regulation of the Commission.

**B.** The Commission's Regulations must include a procedure for testing that is able to accurately identify whether the sample contains a delta-9 tetrahydrocannabinol content concentration level that exceeds the acceptable hemp THC level. The procedure must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC and the test result measures total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported on a dry weight basis.

(Source: WOS 2020-015, May 30, 2020, Section XIX)

## **7.1920 PROCEDURS FOR DISPOSAL/DESTRUCTION OF NON-COMPLIANT CANNIBIS PLANTS**

### **A. Non-Compliant Plant Destruction**

- 1.** Cannabis plants exceeding the Acceptable Hemp THC Level constitute marijuana, a schedule 1 controlled substance under the Controlled Substances Act (CSA), 21 U.S.C. 801 et seq., and must be disposed of in accordance with the CSA and DEA regulations.
- 2.** When a hemp sample tests above the Acceptable Hemp THC Level, the material from the production area which the sample represents must be destroyed by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, Tribal, State, or local law enforcement officer or their designee.
- 3.** Producers must notify the Commission and USDA of their intent to dispose of non-conforming plants and verify disposal by submitting required documentation. This can be accomplished by providing the Commission and the USDA with a copy of the documentation of disposal provided by the reverse distributor and with the “USDA Hemp Plan Producer Disposal Form.”

(Source: WOS 2020-015, May 30, 2020, Section XX)

## **7.1921 TRANSPORTATION REQUIREMENTS**

**A.** The Licensee or other Person responsible for the transportation of a Hemp Crop grown under this Statute must ensure that the following documentation accompanies the Hemp crop at all times during transport:

- 1.** a copy of the Producer license that corresponds to the Harvest Lot, Location and/or Registered Land Area from which the Hemp originated;

2. a copy of the test results, as set forth in Section XXIV(C), that correspond to the to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp.
3. a copy of the transport manifest that includes all information required to be documented by the Commission or the Tribe.
4. any other documentation that may be required by the Tribe, the Commission, or the USDA.

(Source: WOS 2020-015, May 30, 2020, Section XXI)

#### **7.1922 RESTRICTIONS ON SALE OR TRANSFER**

- A.** A licensed producer shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person without prior approval by the Commission.
- B.** The Commission shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of the Acceptable Hemp THC Level), and other marketable Hemp products to members of the general public, if the marketable Hemp product's delta-9-THC level does not exceed the Acceptable Hemp THC Level.
- C.** A licensed Producer selling or transferring, or permitting the sale or transfer, of hemp, shall retain testing data or results for at least three (3) calendar years demonstrating that the delta-9-THC level is not more than the Acceptable Hemp THC Level.
- D.** Licensed Producers shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(Source: WOS 2020-015, May 30, 2020, Section XXII)

## **7.1923 OTHER PROHIBITED ACTIVITIES**

- A.** A licensed Producer shall not plant or grow Hemp on any site not listed in the Producer licensing agreement.
- B.** A licensed Producer shall not allow unsupervised public access to Harvest Lots, including activities such as a Hemp maze.
- C.** A person shall not ship or transport, or allow to be shipped or transported, live Hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the Commission as a prohibited variety.
- D.** A person shall not ship or transport, or allow to be shipped or transported, any Hemp product with a delta-9-THC concentration in excess of the Acceptable Hemp THC Level.

(Source: WOS 2020-015, May 30, 2020, Section XXIII)

## **7.1924 OTHER REQUIRED REPORTS FOR PRODUCERS**

- A.** All licensed Producers shall report hemp crop acreage with FSA and shall provide, at a minimum, the following information:
  - 1.** Street address, and to the extent practicable, geospatial location for each Harvest lot or greenhouse where hemp will be produced. If an applicant/Producer produces in more than one location, that information shall be provided for all production sites.
  - 2.** Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp
  - 3.** License or authorization identifier.
- B.** A licensed Producer shall submit a completed report to the Commission annually detailing the total acreage of hemp planted, harvested, and if applicable, disposed.



**C. Test results report.** Each Producer must ensure that the DEA-registered laboratory that conducts the test of the sample(s) from its Harvest lots reports the test results for all samples tested to USDA. The Test Results report shall contain the information described in this paragraph (2) for each sample tested:

1. Producer's license or authorization identifier.
2. Name of Producer.
3. Business address of Producer.
4. Harvest Lot identification number for the sample.
5. Name and DEA registration number of laboratory.
6. Date of test and report.
7. Identification of a retest.
8. Test result, including the measurement of uncertainty.

**D.** A licensed Producer's failure to submit an accurate and complete report that is required by this Statute, the Commission or the USDA before the deadline established by the Commission or the USDA shall constitute grounds for the Commission to terminate the Producer licensing agreement and deny future applications for licensure.

(Source: WOS 2020-015, May 30, 2020, Section XXIV)

## **7.1925 INFORMATION SUBMITTED TO THE COMMISSION SUBJECT PUBLIC DOCUMENTS STATUTE**

Information and documents generated or obtained by the Commission in connection with the

program shall be subject to disclosure pursuant WOS 2010-009 Public Documents Statute, as amended. Personal and confidential business information shall be exempt.

(Source: WOS 2020-015, May 30, 2020, Section XXV)

#### **7.1926 IMMEDIATE LICENSE SUSPENSION**

**A.** The Commission shall immediately suspend a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony related to a controlled substance.

**B.** The Commission shall immediately suspend a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having made any false statement to the Commission or its representative or failed to comply with any instruction or order from the Commission, a representative of the Commission, or any federal or tribal law enforcement officer.

(Source: WOS 2020-015, May 30, 2020, Section XXVI)

#### **7.1927 NEGLIGENT VIOLATIONS; CORRECTIVE ACTION PLANS**

**A. Negligent Violations.** Negligent Producer violations include, but are not limited to:

- 1.** Failure to provide a legal description of land on which the Producer produces hemp;
- 2.** Failure to obtain a license or other required authorization from the Commission;
- 3.** Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding the Acceptable Hemp THC Level. Hemp producers do not commit a negligent violation under this paragraph if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration/Acceptable Hemp THC Level of more than 0.5 percent on a dry weight

basis.

4. Any other violation of this Statute, except for violations committed with a culpable mental state greater than negligence.

**B. Corrective Action Plans for Negligent Violations.**

1. A person who is found by the Commission to have negligently violated this Statute, or any statute or administrative regulation governing that person's participation in the hemp program shall be subject to a corrective action plan.

2. Corrective action plans issued by the Commission shall include, at a minimum, the following information:

- i. A reasonable date by which the person shall correct his or her violation; and;
- ii. A requirement for periodic reports from the person to the Commission about the person's compliance with the corrective action plan, statutes, and administrative regulations for a period of at least two (2) calendar years from the date of the negligent violation.

3. A hemp Producer that negligently violates any USDA approved State or Tribal Plan or any tribal law or regulation regulating hemp shall not as a result of that violation be subject to any criminal enforcement action by the Federal, State, Tribal or local government.

4. A hemp Producer that negligently violates any USDA approved State or Tribal Plan or any tribal law or regulation regulating hemp three (3) times in a five (5)-year period shall be ineligible to produce hemp for a period of five (5) years beginning on the date of the third violation.

5. The Commission shall conduct an inspection to determine if the corrective action

plan has been implemented as submitted.

(Source: WOS 2020-015, May 30, 2020, Section XXVII)

## **7.1928 VIOLATIONS WITH A CULPABLE MENTAL STATE GREATER THAN NEGLIGENCE**

### **A. Mandatory Reports to Tribal and Federal Law Enforcement Agencies for Violations with a Culpable Mental State Greater Than Negligence.**

1. A person who is found by the Commission to have violated this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence shall be subject to the requirements set forth in this section.

2. The Commission shall *immediately* report a person who is found to have violated this Statute or any administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence to the following law enforcement agencies:

- i. The Attorney General of the United States; and
- ii. The Chief of the Tribal Police Department.

3. **Felonies.** Any person convicted of a felony relating to a controlled substance under State, Tribal or Federal law within the prior ten (10) years shall be ineligible to participate in the Tribe's Hemp Program.

- i. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018 whose conviction also occurred before that date.
- ii. For Producers that are entities, all Key Participants and persons with an ownership interest in the entity shall be considered to be participating in the

plan and subject to the felony restriction for purposes of paragraph (3) of this Section.

- iii. Any person who materially falsifies any information contained in a Producer application to participate in the Tribe's Hemp Program shall be ineligible to participate in the Tribe's Hemp Program.

**4. Civil Penalties.** If the Commission receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of this Statute or the Tribe's hemp Regulations, or the licensing agreement, with a culpable mental state greater than negligence, then the Commission shall bar that person from participating in the Tribe's Hemp Program for a minimum of five (5) years, and may assess a monetary civil penalty in an amount not to exceed \$2,500.

(Source: WOS 2020-015, May 30, 2020, Section XXVIII)

## **7.1929 HEARINGS ON VIOLATIONS**

### **A. Hearings; Consequences.**

1. Upon receiving information that a Producer has violated any USDA approved State or Tribal plan, this Statute, any federal law, or any tribal administrative regulation governing that person's participation in the hemp program, the Commission shall provide reasonable notice to the Producer of the date when a hearing will occur to determine if a violation has occurred.
2. Hearings shall be open to the tribal membership.
3. The Producer shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments that a violation has not occurred.
4. A representative of the Commission shall be allowed an opportunity to present information and arguments regarding the alleged violation.

5. The Producer shall allow an opportunity to present information and arguments.
6. If the Commission finds that it is more likely than not that a Producer negligently violated any USDA approved State or Tribal plan, this Statute any federal law, or any tribal administrative regulation governing that person's participation in the hemp program, the provisions of Section XXVI of this Statute shall apply.
7. If the Commission determines that it is more likely than not that a Producer violated any USDA approved State or Tribal plan, this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence, then Section XXVII of this Statute shall apply, and the person shall be barred from participation in the Tribe's Hemp Program in any capacity for a minimum period of five (5) years.
8. If the Commission determines that no violation has occurred, the proceedings shall be dismissed.
9. Any person who disagrees with the Commission's decision, after a hearing has been held, may appeal the Commission's decision to Tribal Court.
10. The Court shall uphold the decision of the Commission unless the Court determines that the Commission's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

**B.** A person who is found by the Commission to have negligently violated any USDA approved State or Tribal plan, this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program three (3) times in a five (5) year period shall be ineligible to hold a license for a period of five (5) years beginning on the date of the third violation.

(Source: WOS 2020-015, May 30, 2020, Section XIX)

## 7.1930 COMMISSION REPORTS TO THE USDA

**A. Hemp Producer Report.** The Commission shall collect, maintain and report to the Secretary relevant, real-time information for each producer licensed or authorized to produce hemp under this Statute as set forth in this Section, and shall submit to USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each Producer covered under this Statute. If the first of the month falls on a weekend or holiday, the report is due by the first business day following the due date. The report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall contain the information described in this Section.

### 1. Producer Information.

- i. For each new Producer who is an individual and is licensed or authorized under this Statute, the report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
- ii. For each new Producer that is an entity and is licensed or authorized under this Statute, the report shall include full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
- iii. For each Producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.

### 2. Location Information.

- i. A legal description of the land on which the producer will produce hemp in the Territory of the Tribe, including its geospatial location.

3. The status and number of each Producer's license or authorization.
4. The period covered by the report.
5. The information set forth in Section XXIV(B) of this Statute.
6. Indication that there were no changes during the current reporting cycle, if applicable.

**B. Report of occurrence of cannabis plants or plant material that do not meet the definition of Hemp.** The Commission shall promptly notify the Administrator by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and attach the records demonstrating the appropriate disposal of all of those plants and materials in the Harvest lot from which the representative samples were taken.

**C. Hemp Disposal Report.** If a Producer has produced cannabis exceeding the Acceptable Hemp THC Level, the cannabis must be disposed of in accordance with the Controlled Substances Act and DEA regulations. The Commission shall submit to USDA, by the first of each month, a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials. This report would include information regarding name and contact information for each Producer subject to a disposal during the reporting period, and date disposal was completed. If the first of the month fall on a weekend or holiday, reports are due by the first business day following the due date. The report shall contain the information described in this paragraph (7).

1. Name and address of the Producer.
2. Producer license or authorization identifier.
3. Location information, such as Harvest lot identifier, location type, and geospatial location or other location descriptor for the production area subject to disposal.
4. Information on the agent handling the disposal.
5. Disposal completion date.



6. Total acreage.

**D. Annual report.** The Commission shall submit an annual report to USDA. The Report form shall be submitted by December 15 of each year and contain the information described in this paragraph.

1. Total planted acreage.

2. Total harvested acreage.

3. Total acreage disposed.

(Source: WOS 2020-015, May 30, 2020, Section XXX)

#### **7.1931 COMMISSION TO RETAIN INFORMATION ABOUT GROWING LOCATIONS**

**A.** The Commission shall collect and retain for a period of at least three calendar years, the legal description, geospatial location, and Location ID information for every site or location where the Tribe has approved hemp to be Produced.

(Source: WOS 2020-015, May 30, 2020, Section XXXI)

#### **7.1932 REGULATIONS**

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

(Source: WOS 2020-015, May 30, 2020, Section XXXII)

#### **7.1933 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 Statutes of the Little Traverse Bay Bands of Odawa Indians or federal law, 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 this Statute remain in full and binding force and effect.

(Source: WOS 2020-015, May 30, 2020, Section XXXIII)

#### **7.1934 EFFECTIVE DATE**

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto, and upon approval by the Secretary of the United States Department of Agriculture or his or her designee.

(Source: WOS 2020-015, May 30, 2020, Section XXXIV)

## Chapter 20. Reserved