

Chapter 2. Administrative Procedures Act

6.201 PURPOSE

This Administrative Procedures Statute is hereby enacted to establish a standard set of requirements for Executive Branch and Legislative Branch for Regulations; Administrative and Departmental Procedures; Executive Mandates and Directives; Legislative Directives and Resolutions and Tribal Councilor Special Tributes and Declarations. This statute shall repeal and replace the Administrative Procedures Statute WOS 2005-015, WOS 2006-28 and Amendment WOS 2011-014.

Codification Note: Including Repeal and Replace WOS 2008-001 Previous Statute

(Source: WOS 2015-019, October 12, 2015 Section I)

6.202 DEFINITIONS

- A.** “Administrative Procedures” means procedures required by a statute or regulation to clarify the implementation of a statute or regulation. These procedures shall not be a rewrite of the statute but define how an office or officer will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.
- B.** “Business day” means any day of the week that Tribal Governmental Offices are open.
- C.** “Departmental Procedures” shall mean procedures not required by statute or regulation.
- D.** "Constitution" or “Tribal Constitution” means the Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted on February 1, 2005, and any amendments thereto.
- E.** “Executive Directive” means a directive issued by the Tribal Chairperson that establishes basic internal rules of procedure, or guidelines for Executive departments and employees and does not impact Tribal Citizens or entities out-side of the Executive Branch.
- F.** “Legislative Directive” means a directive issued by the Tribal Council that establishes basic internal rules of procedure, or guidelines for Tribal Council or Legislative employees and does not impact Tribal Citizens or entities out-side of the Legislative Branch.

- G.** “Tribal Regulations” means regulations that implement a statute
- H.** “Tribal Code of Regulations” means the codification of the approved Tribal Regulations.
- I.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2015-019, October 12, 2015, Section II)

6.203 TRIBAL REGULATION

- A.** Regulations required by law shall be called Tribal Regulations.
- B.** The Tribal Executive shall develop Tribal Regulations to implement statutes that require regulations.
- C.** Tribal Regulations shall be developed within 120 days of enactment of a law.
- D.** Tribal Regulations shall be forwarded to the Tribal Council for approval.
- E.** The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Tribal Regulations have not been developed or approved.

(Source: WOS 2015-019, October 12, 2015, Section III)

6.204 REQUIREMENTS OF TRIBAL REGULATIONS

- A.** The Executive may develop Regulations for such Statutes that the Executive deems necessary for the implementation of the intent of the Statute and shall forward such Regulations to the Tribal Council in accordance with this Statute. Such Statutes that mandate regulations, the Executive shall draft and submit Regulations to the Tribal Council in accordance with this Statute.
- B.** Tribal Regulations shall reflect the intent of the law. Tribal Regulations shall be written in a manner that protects the best interests of the Tribal Citizens.
- C.** Tribal Citizens shall be provided an opportunity to comment on proposed regulations

prior to approval by the Tribal Council.

- D.** Tribal Regulations shall clearly identify for whom they are intended to apply.
- E.** Tribal Regulations shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.
- F.** Tribal Regulations shall be forwarded to Tribal Council for approval, in accordance with the Tribal Constitution, Article VII (D) (2).
 - 1.** Tribal Regulations shall be considered approved unless disapproved by Tribal Council within thirty (30) days of submission by the Executive.
 - 2.** Disapproved Regulations shall be sent to the Executive with an explanation of why they were disapproved.

(Source: WOS 2015-019, October 12, 2015, Section IV)

6.205 ADMINISTRATIVE PROCEDURES

- A.** Procedures required by law or regulation shall be called Administrative Procedures.
- B.** The Tribal Executive shall develop Administrative Procedures to implement statutes and regulations that require procedures.
- C.** Administrative Procedures shall be developed within 120 days of enactment.
- D.** Administrative Procedures required by a statute shall be forwarded to the Tribal Council for approval.
- E.** The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Administrative Procedures have not been developed or approved.

(Source: WOS 2015-019, October 12, 2015, Section V)

6.206 REQUIREMENTS OF ADMINISTRATIVE PROCEDURES

- A. Administrative Procedures shall reflect the intent of the statute or regulation they are intended to implement. Administrative Procedures shall be written in a manner that protects the best interests of the Tribal Citizens.
- B. Administrative Procedures shall clearly identify to whom they are intended to apply in whole or in part.
- C. Administrative Procedures shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.
- D. Administrative Procedures that require Tribal Council approval shall:
 - 1. Be considered approved unless disapproved by Tribal Council within thirty (30) days of submission by the Executive.
 - 2. Disapproved Administrative Procedures shall be sent to the Executive with an explanation of why they were disapproved.

(Source: WOS 2015-019, October 12, 2015, Section VI)

6.207 DEPARTMENTAL PROCEDURES

- A. The Tribal Governmental offices, departments, and programs should develop Departmental Procedures to implement statutes and regulations that do not have a statutory requirement for procedures and when necessary to promote efficiency in their office.
- B. Departmental Procedures are required to promote a fair and standard method of implementing daily activities of Tribal Departments.
- C. Departmental Procedures shall reflect the intent of the program, statute or regulation they are intended to implement. Departmental Procedures shall be written in a manner that protects the best interests of the Tribal Citizenship.
- D. Departmental Procedures shall clearly identify to whom they are intended to apply in whole or in part.

E. Departmental Procedures shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

(Source: WOS 2015-019, October, 12, 2015, Section VII)

6.208 EXECUTIVE MANDATES

A. The Tribal Executive is hereby mandated to publish all documents authorized by this statute on the Tribe's website. Additionally, any documents that required Tribal Council approval shall be posted on the Tribe's website for seven (7) business days to provide a method for Tribal Citizens to submit comments prior to approval by Tribal Council and the same shall be published within seven (7) business days after approval on the Tribe's web-site.

B. The Tribal Executive is hereby mandated to develop a standardized numbering system for Tribal Regulations to be adopted into a Tribal Code of Regulations, Administrative Procedures, and Departmental Procedures and establish a method of periodic review of approved regulations and procedures.

C. Tribal Regulations and Administrative Procedures may be presented for approval at the same time as their authorizing Statute.

D. The Tribal Executive Branch is hereby mandated to enforce all approved Tribal Regulations and to implement all required Administrative Procedures.

(Source: WOS 2015-019, October 12, 2015, Section VIII)

6.209 EXECUTIVE DIRECTIVES AUTHORIZED

The Executive is hereby authorized to use Executive Directives necessary for operation of the Executive branch. Directives do not carry the force of law and must be published on the Tribe's website in order for such Directive to be executed and carry authority.

(Source: WOS 2015-019, October 12, 2015, Section IX)

6.210 TRIBAL COUNCIL DIRECTIVES AUTHORIZED

The Tribal Council is hereby authorized to use Tribal Council Directives deemed necessary for operation of the Legislative Branch. Directive shall be approved by Tribal Council motion. Directives do not carry the force of law and must be published on the Tribe's website in order for such Directive to be executed and carry authority.

(Source: WOS 2015-019, October 12, 2015, Section X)

6.211 TRIBAL LAW

- A.** In accordance with the Tribal Constitution, Tribal Council passes laws. Laws shall be in the form of either a Resolution or Statute; or an amendment of the same.
- B.** Laws that are passed by Tribal Council shall be submitted to the Executive.
- C.** Laws 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.
- D.** Tribal Council will exercise the following Constitutional powers by passing laws:
 - 1.** To exercise Tribal jurisdiction, including civil and criminal authority and the regulation of commerce.
 - 2.** To exercise the jurisdiction of the Little Traverse Bay Bands of Odawa Indians over Indian Child Welfare matters and all other domestic relations matters.
 - 3.** To govern the issuance of the Little Traverse Bay Bands of Odawa Indians charters of incorporation for economic or other purposes, and to regulate the activities of these corporations;
 - 4.** To exclude person(s) or other parties from Tribal lands;
 - 5.** To govern the encumbrance of Tribal lands or other intangible assets, and the encumbrance and disposition of non-real estate tangible assets;

- 6.** To manage 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.
- 7.** To set the qualifications for appointees to committees, commissions, and boards.
- 8.** To appropriate funds and enact a budget formulation process.
- 9.** To levy taxes and govern the collection of taxes and license fees.
- 10.** Enact laws regarding Membership and implementation of Membership provisions.
- 11.** Enact compensations statutes for Tribal Council, Tribal Chair and Vice Chair, Judges and Appellate Judges, Election Board Members and Prosecutor and Assistant Prosecutors.
- 12.** Enact laws regarding Open Meetings.
- 13.** Enact laws for protecting the Office of the Prosecutor from inappropriate influence
- 14.** Enact a law regarding removal of elected or appointed officials not listed in the Constitution for neglect of duties or intentional wrongdoing.
- 15.** Enact a law requiring financial disclosure statements of candidates, and elected and appointed governmental officials.
- 16.** Enact a law for official Tribal position in support or opposition to an issue or matter.
- 17.** Any other duties that are required by the Constitution to be exercised through the use of laws.

E. Resolutions shall be certified by the Legislative Leader and Tribal Council Secretary that indicates that Resolution was passed at a meeting of Tribal Council where a quorum was present.

F. Resolutions that are submitted by the Executive shall take immediate effect upon approval of Tribal Council.

G. Laws that are enacted shall be codified into the Waganakising Odawa Code of Law, unless the Resolution has a limited effective date of less than one year such as Appropriations for a current fiscal year.

H. All laws, whether or not codified, shall be posted to the Tribal website.

(Source: WOS 2015-019, October 12, 2015, Section XI)

6.212 TRIBAL MOTION and CERTIFICATION

A. In accordance with the Tribal Constitution, Tribal Council shall transact official business by voting only at a meeting where a quorum of five Tribal Council members is present.

B. Tribal Council shall transact its official business through the use of voting on Motions.

C. Motions shall be made at a Regular, Special or Emergency Meetings, unless otherwise indicated by the Tribal Constitution.

D. Votes on Motions must be in person and proxy votes are not allowed unless otherwise indicated by the Constitution.

E. All Motions shall be reflected in the minutes indicating the person who made the motion, the person who seconded the motion and the result of the vote.

F. Only Motions that have a majority vote of the eligible voting Tribal Council members shall be considered the official action of the Tribal Council.

G. Tribal Council will exercise its official powers through the use of Motions, including but not limited to the following:

1. To approval or disapproval of policies, resolutions and regulations presented from the Executive branch.
2. To purchase, receive by gift, or otherwise acquiring of land, interests in land, personal property or other intangible assets.
3. To request for lands be placed in trust with the United States.
4. To approval of land use plans and zoning of lands.
5. To approval of leases for Tribally owned land and lands held in trust.
6. To approval of all sales, or dispositions of Tribal lands.
7. To employ or legal counsel.
8. To approval of the filing of lawsuits in the name of the Tribe as proposed by the Executive, provided; the Tribal Council may approve the filing of a lawsuit in the name of the Tribal without Executive concurrence by an affirmative vote of six (6) members of the Tribal Council.
9. To establish committees, commissions, and boards, and approve appointments as presented by the Executive.
10. To establish and maintain government offices for the Little Traverse Bay Bands of Odawa Indians.
11. To raise revenue.
12. To develop policies for receiving any grants, donations, or other funding from any person, corporation, municipality, government, or entity.
13. To establish such lower courts as may be deemed necessary upon request from the Judiciary.
14. To approve the creation or dissolution of Executive divisions or departments to

promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources.

15. To approve negotiations with any other governments, businesses or individuals.

16. To adopt rules of conduct to govern all levels of Tribal government.

17. To establish and procedures to provide access for review by any Tribal member or his/her authorized representative, who is a Tribal member, of the records of the Little Traverse Bay Bands of Odawa Indians.

H. Motions may be certified by the Legislative Leader and Tribal Council Secretary that indicates that the Motion was passed at a meeting of Tribal Council where a quorum was present.

(Source: WOS 2015-019, October, 12, 2015, Section XII)

I. If a Motion, after being placed on a Tribal Council agenda, fails to have a councilor make the motion or second the motion, then the motion fails. The minutes will reflect that the motion failed for lack of motion or lack of support.

(Source: WOS 2021-006, May 14, 2021, Section XII)

6.213 TRIBAL COUNCILOR TRIBUTES AND DECLARATIONS

A. A Special Tribute is a document that acknowledges or recognizes a person(s) or organization with gratitude, respect or admiration for an action or accomplishment. One or more Tribal Councilors may sign onto a Special Tribute as individual Councilors. A Special Tribute shall not obligate or commit the Tribal Council in any manner. Special Tributes do not require formal action by the Tribal Council.

B. A Declaration is a formal written public statement in support or opposition of an issue or matter. Declarations shall be approved by Tribal Council motion.

C. Copies of all Special Tributes and Declarations shall be submitted to the Legislative Office for record keeping purposes and shall be posted to the Tribal website.

(Source: WOS 2015-019, October 12, 2015, Section XIII)

6.214 DELEGATION OF POWERS

Tribal Council retains those powers that are not expressly delegated.

(Source: WOS 2015-019, October 12, 2015, Section XIV)

6.215 ELECTRONIC FILING

All documents may be filed electronically to an electronic address as designated by the Governmental Branch. If appropriate, hard copies of the documents may be filed with the designated office on the next available business day.

(Source: WOS 2015-019, October 12, 2015, Section XV)

6.216 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 2015-019, October 12, 2015, Section XVI)

6.217 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 2015-019, October 12, 2015, Section XVII)