

## **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 disbursement 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 be 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 Judgement 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 SHORT TITLE

This Statute may be cited as the “Trust Fund Board Act.” This Statute repeals and replaces Waganakising Odawak Statute 1998013.

(Source: WOS 1999011, August 22, 1999, Section I)

## 7.202 DEFINITIONS

- A.** “**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.
- B.** “**Trust Funds**” means the Land Claims Distribution Trust Fund and the Minor, Legal Incompetent and Incarcerated Person’s Trust Fund, and their successor funds created under the Plan. Initially, the Minor Legal 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.
- C.** “**Board**” means the Trust Fund Board created under this Statute.
- D.** “**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.
- E.** “**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.
- F.** “**Secretary**” means the Secretary of the United States Department of the Interior.

(Source: WOS 1999011, August 22, 1999, Section I)

## 7.203 PURPOSE

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.

(Source: WOS 1999011, August 22, 1999, Section I)

## 7.204 CREATION OF TRUST FUND BOARD

- A.** **Creation of Trust Fund Board.** The Tribal Council hereby creates the Trust Fund

Board, which shall consist of five (5) Tribal members at least eighteen (18) years of age appointed by the Tribal Council. No member of the Tribal Council shall serve on the Trust Fund Board.

**B. Qualifications.** No person can be appointed to the Board who has been convicted of a felony in tribal, state, or federal court within seven (7) years prior to the date of appointment. The Tribal Council shall require background checks of potential appointees prior to finalizing appointments.

**C. Terms and Compensation.** Members of the Board shall be appointed to serve for four (4) year terms. Members may be reappointed for additional terms without limitation. To stagger terms, when the Tribal Council makes initial appointments, two people shall be appointed to two (2) year terms, and three people shall be appointed to four (4) year terms. All appointments thereafter shall be for four (4) year terms. One of the Board members shall be elected by the Board to serve as Chairperson for a one (1) year term. There shall be no limit on re-election as long as the Chairperson remains on the Board. The Tribal Council may authorize compensation to be paid to members of the Board. This compensation shall be considered a cost to be charged against the current earnings of the Trust Funds.

**D. Oath of Office.** Upon appointment, the Tribal Court shall administer the oath of office to the members of the Board which oath of office shall include a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians and to perform faithfully and diligently the duties and fiduciary responsibilities set forth in this Statute.

**E. Vacancies.** In the event a vacancy occurs in the Board, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal member to fill the remaining term of office.

**F. Removal.** Board members may be removed for the reasons, and following the procedures set out in the Removal of Commissioners and Nepotism Statute (Waganakising Odawak Statute 1997005), or such successor statute as the Tribal Council may enact.

**G. Application of Commissions Statute.** All provisions of the Commissions, Boards and Committees Procedures Statute (Waganakising Odawak Statute 1998012) not inconsistent with this Statute apply to the Board.

(Source: WOS 1999011, August 22, 1999, Section II; WOS 1998012 referenced in subsection G was repealed by WOS 2000-08, June 4, 2000; the revised Commissions, Boards and Committees Statute was enacted on September 8, 2002 as WOS 2002-05)

## **7.205 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 creation, 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. §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 report shall be reasonably available for inspection by the members of LTBB, and a financial statement shall be mailed annually to each adult member at their last known address. 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 stock 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 other 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 Investments.** 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) [WOTC 7.103(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. Tribal Government Trust Fund.** The Board shall administer two additional trusts funds, the Tribal Government Trust Fund Non-Expendable, and the Tribal Governmental Trust Fund Expendable, the principal of which shall be derived 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 therefrom. 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 III (D) [WOTC 7.203(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.

**H. 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 the Land Claims Distribution Trust Fund. 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 accruing until the date of their eighteenth birthday. 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 their release. Eligible recipients who turn eighteen or are released from incarceration may also elect to leave one or both of their share certificates invested in the Land Claims

Distribution Trust Fund in accordance with section III (F)(2) of this Statute.

**I. New Trust Fund.**

1. Upon the accumulation of the original principal pursuant to subsection (d) of the Plan [WOTC 7.103(D)], 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 each year 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 an 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.

**J. 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 1999011, August 22, 1999, Section III; section H(2) amended by WOS 2001-07, April 22, 2001)

**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 including the Chairperson. Provided, an action may be ratified by non-attending 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.** Each Board member 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. The costs of obtaining such bonds and insurance shall be considered costs charged against the earnings of the Trust Funds.

(Source: WOS 1999011, August 22, 1999, Section IV)

### **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 1999011, August 22, 1999, Section V)

### **7.208 EFFECTIVE DATE**

This Statute shall take effect immediately upon enactment [August 22, 1999].

(Source: WOS 1999011, August 22, 1999, Section VI)

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

### **7.301 SHORT TITLE AND PURPOSE**

- A. Short Title.** This Statute may be cited as the “Economic Development Commission Act.”
- B. Purpose.** The purpose of this Statute is to set up an economic development commission that will promote the development and management of Tribal non-gaming economic enterprises. Such enterprises will aid the Tribe in achieving economic independence to promote the health, education and welfare of its members.

(Source: WOS 1996007, November 17, 1996, Section I)

### **7.302 CREATION OF THE ECONOMIC DEVELOPMENT COMMISSION**

- A. Creation of the Commission.** The Tribal Council hereby creates the Economic Development Commission, which shall consist of five (5) Tribal members at least eighteen years of age appointed by the Tribal Council.
- B. Term and Compensation.** Members of the Economic Development Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, three (3) people shall be appointed to two (2) year terms, and four (4) people shall

be appointed to three (3) year terms. All appointments thereafter shall be for three (3) year terms. One of the Commission members shall be appointed by the Commission to serve as Chairperson for a one year term. There shall be no limit on reappointment as long as the chairperson remains on the Commission. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

**C. Oath of Office.** As soon as practical after appointment, the Tribal Court shall administer the oath of office to the members of the Economic Development Commission which oath of office shall include a commitment to uphold the Constitution and Laws of the Little Traverse Bay Bands of Odawa Indians and to perform faithfully and diligently the duties and responsibilities set forth in this Statute.

**D. Vacancies.** In the event a vacancy occurs in the Economic Development Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal member to fill the remaining term of office in consultation with the Commission.

**E. Removal.** Commissioners may only be removed in accordance with the Tribal statute governing such removal.

(Source: WOS 1996007, November 17, 1996, Section II; subsection C amended by WOS 2000-12, October 22, 2000; subsection A amended by WOS 2002-05, September 8, 2002)

### **7.303 DUTIES OF THE ECONOMIC DEVELOPMENT COMMISSION**

The Economic Development Commission shall have the following duties excluding any matters directly relating to gaming:

**A.** Assess economic development proposals brought to the Tribe from outside parties or entities, and from Tribal members and entities, and present such assessments to the Tribal Council.

**B.** Develop proposals for Tribal enterprises and activities that will enhance the Tribal economy, or provide needed services, employment or training to Tribal members, and present such proposals to the Tribal Council.

**C.** Coordinate its activities with the Tribal Planning Department.

**D.** Engage in further activities as directed by the Tribal Council.

(Source: WOS 1996007, November 17, 1996, Section III)

### **7.304 STAFFING**

Tribal Council may direct the Tribal Administrator to assign or hire staff to assist the Commission.

(Source: WOS 1996007, November 17, 1996, Section IV)

### **7.305 MEETINGS, VOTING, CONFLICTS OF INTEREST, CONFIDENTIAL RECORDS**

- A. Meetings.** The Economic Development Commission shall meet at least one time per month. Provided, the Commission may on its own decide to convene as often as necessary to carry out its duties. The Economic Development Commission may meet in closed session when considering potential contracts, business ventures, or land acquisitions when it deems that general public knowledge of its discussions at a certain time could hinder the potential of the projects being considered.
- B. Voting.** Actions of the Economic Development Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters before the Commission. A quorum shall consist of a simple majority of the number of commissioners notwithstanding vacancies. A meeting may not be called to order without a quorum present and no official business may be conducted absent a quorum.
- C. Conflicts of Interest.** Commission members who have a direct financial interest in, or have immediate family members with a direct financial interest in, a potential economic venture shall not vote on any action relating to such potential venture.
- D. Confidential Records.** All records of the Commission involving specific economic development matters shall be kept strictly confidential until directed by the Tribal Council.

(Source: WOS 1996007, November 17, 1996, Section V)

### **7.306 EFFECTIVE DATE**

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

(Source: WOS 1996007, November 17, 1996, Section VI; subsection B modified by WOS 2003-03, April 27, 2003)

## **Chapter 4. Gaming Regulation**

*[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 2005-06, enacted May 15, 2005, was approved by the NIGC on \*\*\*]*

## 7.401 PURPOSE

The Tribal Council hereby ordains and establishes this Statute for the purpose of authorizing and comprehensively and preemptively regulating 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 enacted on February 18, 2001, being Waganakising Odawak Statute 2001-02.

(Source: WOS 2005-06, May 15, 2005, 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), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* 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 Statute 2004-08, or any successor entity created by Tribal Statute to carry out non-regulatory aspects of the Tribe’s gaming operation.
- B. **“Commission”** means the Little Traverse Bay Bands of Odawa Indians Tribal Gaming Regulatory Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.
- 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 25 U.S.C. § 2710(d).
- 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 members.
- 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.
- G. **“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; or
  - j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- 2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
  - 3. If not otherwise included, the four most highly compensated persons in the gaming operation. *[25 C.F.R. § 522.4(b)(1)] & [25 C.F.R. § 502.19]*

**H. “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; and
- 2. Total gaming-related operating expenses, excluding management fees.

**I. “Non key employee”** means any employee of the gaming operation that is not a key employee or primary management official.

**J. “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; or
  - b. To set up working policy for the gaming operation; or
  - c. The chief financial officer or other person(s) who has financial management responsibility.

**K.** “**Tribal Council**” means the elected governing body of the Little Traverse Bay Bands of Odawa Indians (LTBB).

**L.** “**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.

**M.** “**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 is recognized as possessing powers of self-government.

(Source: WOS 2005-06, May 15, 2005, 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, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("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, 25 U.S.C. Section 2703(8) 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 2005-06, May 15, 2005, 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. [25 C.F.R. § 522.4(b)(1)]

(Source: WOS 2005-06, May 15, 2005, 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 members;
3. to promote tribal economic development;
4. to donate to charitable organizations; or
5. to help fund operations of local government agencies. *[25 C.F.R. § 522.4(b)(2) and 25 U.S.C. § 2710(b)(2)(B)]*

**B.** If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only in accordance with a plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

**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 2005-06, May 15, 2005, Section V)

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

**A.** The Tribe hereby establishes a Tribal Gaming Regulatory 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 members. 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 individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal control standards for the gaming operation and in tracking 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 unless they would themselves qualify for licensing under this Statute, have no direct business relationship with the Tribe's gaming enterprise, and may only be appointed to emergency interim positions when no other qualified Tribal members are available.
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, Tribal Council 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; persons ineligible to be key employees or primary management officials.

**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 members appointed by the Tribal Council.
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.** Tribal member nominees for the positions of Commissioners must submit to a background check qualifying for licensing under this Statute.

**F.** The Commission shall:

1. Conduct or cause background investigations to be conducted on, at a minimum,

primary management officials and key employees;

2. Review and approve all investigative work conducted;
3. Report results of background investigations to the NIGC;
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's Minimum Internal Control Standards (MICS);
13. Promulgate and issue regulations on the levying of fees associated with gaming license applications;
14. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming Statute, or any other Tribal, Federal, or State, if applicable, gaming regulations; and
15. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.
16. 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.

**G.** 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. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation.

**1.** 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 and staff in the performance of their official duties.

**H.** 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.

**I.** 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.

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

(Source: WOS 2005-06, May 15, 2005, Section VI)

#### **7.407 ETHICS**

**A.** 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 Gaming Commission shall be held to high ethical standards. Prior to taking their positions, the Commissioners shall agree to be bound by the following principles:

- 1.** Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties;
- 2.** Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest;
- 3.** Commissioners shall not solicit or accept any inappropriate gift or other item of monetary value as defined in the Commission's bylaws, regulations or Tribal Council statute or policy, including complimentary items (see Section VIII, below), from any

person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Commission, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties;

4. Commissioners shall not make unauthorized commitments or promises of any kind purporting to bind the Tribe;
5. Commissioners shall not use their positions for private gain;
6. Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual;
7. Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities;
8. Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities;
9. Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(Source: WOS 2005-06, May 15, 2005, Section VII)

#### **7.408 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's Minimum Internal Control Standards, found at 25 C.F.R. § 542.17.
- B. No 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.

(Source: WOS 2005-06, May 15, 2005, Section VIII)

#### **7.409 AUDIT**

- A. Annual 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. The Commission shall have a right to receive a copy of the annual audit.

**B.** Internal Audit. The Commission shall employ personnel to conduct the compliance function (internal audit). In the event that the internal audit function cannot be performed by in-house staff, 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, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A above. [25 C.F.R. § 522.4(b)(4)]

(Source: WOS 2005-06, May 15, 2005, Section IX)

#### **7.410 ENVIRONMENTAL 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 2005-06, May 15, 2005, Section X)

#### **7.411 PATRON DISPUTE RESOLUTION**

Patrons who have gaming related complaints against the gaming establishment, a gaming employee, or a management contractor shall have as their sole remedy the right to file a petition for relief with the Commission and the complaint shall be resolved in accordance with procedures adopted by the Commission. Such procedures shall at a minimum include:

**A.** The aggrieved member of the gaming public shall first bring his/her complaint either verbally or in writing to staff of the gaming facility within seven (7) days of the incident giving rise to the complaint.

**B.** If not satisfied with staff response, the complaining party may file a written complaint with the Commission within fourteen (14) days from receiving the gaming staff response. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued.

(Source: WOS 2005-06, May 15, 2005, Section XI)

#### **7.412 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 Commission regulations promulgated under this Statute.

**B. Application Forms.**

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

“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed 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 National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.” [25 C.F.R. § 556.2(a)]

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; or
- 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 notice shall be placed on the application form for a key employee or a primary management official:

- a. A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment, or both. (18 U.S.C. §1001).

**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 25 C.F.R. parts 556 and 558.

2. The Commission shall conduct an investigation sufficient to make a determination under Subsection G. below. In conducting a background investigation, the Commission or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation. 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 Licensing Department or Tribal Law Enforcement. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any. [25 C.F.R. § 522.2(h)]; [25 C.F.R. § 556.4(a)]

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

1. As part of its review procedure, the Commission or its agent 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 social security card, drivers 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; and

**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.

**3.** The Commission and its private investigator shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Tribal, Federal or State law. *[25 C.F.R. § 556.4(b)]*

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

The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that licensing of the person 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, 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.

#### **H. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.**

**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 National Indian Gaming Commission 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. *[25*

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

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

- a.** Steps taken in conducting a background investigation;
- b.** Results obtained;
- c.** Conclusions reached; and
- d.** The bases for those conclusions. *[25 C.F.R. § 556.5(a), (b)]*

**2.** The Commission shall forward the completed investigative report to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Statute by the Chairman of the National Indian Gaming Commission. *[25 C.F.R. § 558.3(b)]*

**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. *[25 C.F.R. § 556.5(c)]* 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; and
- 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. *[25 C.F.R. § 556.5(d)]*

**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. [25 C.F.R. § 558.1(b), (c)]

**J. Granting a Gaming License.**

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission 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 National Indian Gaming Commission, the Commission, acting for the Tribe, may issue a license to such applicant. [25 C.F.R. § 558.4(a)]

2. The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission 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 paragraph J. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information. [25 C.F.R. § 558.4(c)]

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission 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 National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Commission shall make the final decision whether to issue a license to such applicant. [25 C.F.R. § 558.4(b)]

**K. License Suspension.**

1. If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission, or other credible source, reliable information indicating that a key employee or a primary management official is not eligible for employment, the Commission shall suspend/revoke such license and shall notify in writing the licensee of the suspension and the proposed revocation. [25 C.F.R. § 558.5(b)]

2. The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation/suspension of a license. [25 C.F.R. § 558.5(c)]

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. [25 C.F.R. § 558.5(d)]

## **L. Review of Disputes.**

The regulations shall contain an appellate procedure whereby appeals of licensing decisions are taken to the Tribal Court or such other appellate body as established therein. The burden of proof in hearings and appeals is on the person challenging the decision of the Commission, and the regulations may contain provisions for cost reimbursement for frivolous challenges.

Tribal members subject to licensing hearings shall be informed prior to any hearings that they may have another Tribal member of their choice present at all hearings, provided that they sign a form authorizing release of confidential information to such Tribal member prior to their hearing.

(Source: WOS 2005-06, May 15, 2005, Section XII)

### **7.413 LICENSES FOR NON-KEY EMPLOYEES**

All non-key employees must obtain and maintain in good standing a non-key license issued by the Commission. A non-key employee cannot be promoted to a key employee position without first obtaining a key-employee license. 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, and the investigation need only include fingerprinting and criminal history checks. The standards of issuance, suspension and revocation of non-key licenses will be set out in the regulations of the Commission.

(Source: WOS 2005-06, May 15, 2005, Section XIII)

### **7.414 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 and accounting services are excluded from this section.

#### **B. Submission of a Vendor License Application.**

**1.** 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, 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.

**2.** A vendor may submit a copy of a recent license application to another

jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information required by the Commission not contained in the other application.

**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, addresses and telephone numbers, title, and percentage of ownership in the company; and

**o.** Any further information the Tribe deems relevant.

**2.** The following notice shall be placed on the application form for a vendor and its principals:

**a.** 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 references listed in the vendor application; and

**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 members 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 2005-06, May 15, 2005, Section XIV)

#### **7.415 MINIMAL INTERNAL CONTROL STANDARDS**

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 regulations of the NIGC at 25 C.F.R. Part 542. The Tribe's MICS shall be set out in separate regulations to be reviewed and approved by the Tribal Council.

(Source: WOS 2005-06, May 15, 2005, Section XV)

#### **7.416 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. [25 C.F.R. § 522.4(b)(6)]

(Source: WOS 2005-06, May 15, 2005, Section XVI)

#### **7.417 AGENT FOR SERVICE OF PROCESS**

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

**7500 Odawa Circle**  
**Harbor Springs, MI 49740**      [25 C.F.R. § 519.1]

(Source: WOS 2005-06, May 15, 2005, Section XVII)

#### **7.418 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 2005-06, May 15, 2005, Section XVIII)

#### **7.419 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 2005-06, May 15, 2005, Section XIX)

#### **7.420 EFFECTIVE DATE**

This Statute takes effect upon approval of the Chairman of the National Indian Gaming Commission, or when considered approved by operation of applicable Federal law and/or regulation.

(Source: WOS 2005-06, May 15, 2005, Section XX)

### **Chapter 5. Gaming Board of Directors**

#### **7.501 PURPOSE**

**A.** The Little Traverse Bay Bands of Odawa Indians (LTBB) seeks to promote the health and welfare of its members in a way that respects, preserves and protects Tribal traditions, values and culture. Economic development is necessary to promote the well being of the Tribe and its members. This Statute establishes a Gaming Board of Directors to develop policies and procedures for the orderly and efficient operation of the Tribe's Gaming Enterprises and to oversee their operation. The Board of Directors is charged with maximizing the economic efficiency of the Gaming Enterprises while respecting Tribal traditions, values and culture.

**B.** This Statute repeals and replaces Waganakising Odawak Statute 2000-02, as amended by Waganakising Statutes 2001-12. The Gaming Board of Directors appointed under this Statute shall assume all legal obligations, including contracts, leases and subleases of the Gaming Administration serving under Waganakising Odawak Statute 2000-02.

(Source: WOS 2004-08, November 21, 2004, Section I)

#### **7.502 DEFINITIONS**

**A. General Provisions.** When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural include words in the singular, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

**B. "Enterprises"** means the commercial enterprises of the Tribe authorized to engage in Gaming, and all ancillary commercial activities within the building(s) and other improvements purchased or constructed for the conduct of Gaming.

**C.** "Gaming" means any game classified as "Class II" or "Class III" under the Indian Gaming Regulatory Act of October 17, 1988.

**D.** "Gaming Operations" means all business operations directly related to the conduct of Gaming.

**E.** "Independent Auditor" is the person or entity required under the LTBB Gaming Regulatory Statute, as amended.

**F.** "Tribal Council" means the governing body of the Little Traverse Bay Bands of Odawa Indians.

**G.** "Chief Financial Officer" means the person employed by the Tribal Council to oversee all financial affairs of the Tribe.

(Source: WOS 2004-08, November 21, 2004, Section II)

### **7.503 COMPOSITION AND APPOINTMENT OF THE GAMING BOARD OF DIRECTORS**

#### **A. Composition and Function.**

The Gaming Board of Directors shall function as a Tribal Council entity with responsibility for carrying out the duties set out in this Statute. The Gaming Board of Directors shall consist of five (5) persons appointed by the Tribal Council who meet the eligibility requirements set out in subsection (B) of this section. The terms of the members of the Gaming Administration serving under Waganakising Odawak Statute 2000-02 shall expire upon appointment and swearing in of the Gaming Board of Directors under this Statute pursuant to subsection C of this section.

#### **B. Eligibility.**

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

- 1.** A person must be an enrolled member of the Tribe at least twenty-one (21) years of age;
- 2.** The appointee must be a person, who would qualify for licensing under the Tribe's Gaming Regulatory Ordinance;
- 3.** No person can serve on the Gaming Board of Directors who is employed in Gaming operations of LTBB; another federally recognized Indian tribe, or any other facility or enterprise conducting Gaming;
- 4.** No person can serve on the Gaming Board of Directors, who has been

convicted of a felony in tribal, state or federal court within seven (7) years prior to the date of the appointment;

5. No person can serve on the Gaming Board of Directors who is employed by the LTBB Tribal government or is an elected official of LTBB.

**C. Appointment and Term.**

The Gaming Board of Directors is appointed by and serves at the pleasure of the Tribal Council. Appointments are done by a simple majority of a quorum. Removing a member of the Board of Directors within six years (6) of appointment requires an affirmative vote of at least five (5) of the seven (7) members of Tribal Council, or seven (7) of nine (9) in the event the Tribal Council increases in size under a new constitution.

(Source: WOS 2004-08, November 21, 2004, Section III)

**7.504 POWERS, DUTIES, AND FUNCTIONS OF GAMING BOARD OF DIRECTORS**

**A. Powers.**

The Gaming Board of Directors shall have the following powers in connection with the development, financing and oversight of the Enterprises:

1. To lease real property and structures, make improvements, and conduct maintenance, for the development and operation of the Enterprises;
2. To acquire, either directly or by lease, all equipment, furnishings, fixtures, machinery, hardware, software, supplies and other personal property as may be necessary for the development and operation of the Enterprises;
3. To borrow funds for improvements, for the construction and/or renovation of such improvements or for the acquisition of such personal property as may be necessary for the development and operation of the Enterprises and to repay such funds, including to execute appropriate notes, leasehold or other mortgages, security agreements or other financing agreements as may be necessary to evidence the intent to repay such funds;
4. To employ a general manager of the Enterprises;
5. To employ an executive assistant;
6. When entering into contracts for up to \$750,000 pursuant to the powers enumerated in this section, the Gaming Board of Directors is authorized to waive its common law immunity to suit in the Tribal Court of the Little Traverse Bay Bands of Odawa Indians, including the enforcement of Arbitration, to the specific

limited extent specified in the contracts it negotiates that are essential to the operation of the Enterprises.

**B. Duties.**

The Gaming Board of Directors shall have the authority and responsibility for developing, reviewing and approving policies and procedures for the orderly and efficient operation, management and maintenance of the Enterprises, including, but not limited to, the following:

1. Human resources and personnel management;
2. Bingo and other Class II Gaming operations;
3. Class III Gaming operations;
4. Preparation of annual budgeting and operating plan in conjunction with the General Manager and the Tribe's Chief Financial Officer;
5. Food and beverage service;
6. Marketing;
7. Security;
8. Entertainment;
9. Cash Management, which includes an annual plan for profit distributions to the Tribal government;
10. Maintenance; and
11. Transportation.

**C. Functions.**

**1. Standards.** In developing, reviewing and approving general policies and procedures for the operation, management and maintenance of the Enterprises, the Gaming Board of Directors shall ensure that such policies and procedures are in accordance with the LTBB Constitution, Generally Accepted Accounting Principles, generally accepted business principles, minimum internal control standards, and are commercially reasonable while respecting Tribal traditions, values and culture.

**2. Implementation.** The policies and procedures developed by the Gaming Board of Directors will be implemented through the general manager employed

by the Board of Directors. The Gaming Board of Directors will not be involved in the day-to-day management and supervision of the Enterprises but will review and evaluate the performance of the general manager and the overall performance of the Enterprises.

### **3. Reporting.**

**a.** The Gaming Board of Directors shall prepare, at a minimum, a quarterly management, discussion and analysis report for the Tribal Council, which shall include, but not be limited to, the quarterly financial report as prepared by the accounting department, along with a management discussion and analysis of the financial information. The operational plan shall be updated each quarter. The financial report shall include projected net revenues for not less than six (6) months in advance based on management's operational plan. The report should also include information regarding the number of employees, employee turn over, number of members employed, number of members employed in management, requests for new development and or capital projects and any other information the Gaming Board of Directors feels is appropriate. These quarterly reports must be submitted to the Tribal Council within thirty (30) days after the end of each quarter.

**b.** The Tribal Council shall appoint the Independent Auditor to perform the annual independent financial audit and internal control audit required by the LTBB Gaming Regulatory Statute, the expense of which will be billed to the Enterprise. The Independent Auditor will present the audit report to the Tribal Council, the Gaming Board of Directors and the Gaming Regulatory Commission.

**4. Bank Accounts.** Upon notification of the Tribe's Chief Financial Officer the Gaming Board of Directors shall have the authority, by adopting resolution, to establish and maintain such bank accounts as may be necessary or convenient for the operation of the Enterprises.

**5. Budget.** Each year the Gaming Board of Directors in consultation with the Tribe's Chief Financial Officer, the gaming accounting department and the general manager shall adopt an annual budget and operating plan. The budget and operating plan will be provided to the Tribal Council. All expenses of the Gaming Board of Directors shall be kept in a separate budget approved by the Tribal Council.

**6.** The Tribe's Chief Financial Officer shall oversee and manage the accounting, finance, cage, credit, and cash management of the casino through the casino controller and other directors and managers as appropriate. The cost of these departments shall be covered within the Enterprise budget and operating plans.

(Source: WOS 2004-08, November 21, 2004, Section IV)

## **7.505 MEETINGS AND PROCEDURES**

### **A. Meetings.**

The Gaming Board of Directors shall meet at least monthly and as often as circumstances warrant. The Gaming Board of Directors shall make an annual report available to Tribal members at the annual Tribal Community meeting. The Gaming Board of Directors may meet in executive session as necessary to protect proprietary and other business related information. Notice of Gaming Board of Directors meetings shall be by forty-eight (48) hours written notice in advance to all Gaming Board of Directors members. Provided, in the event of an emergency, business may be conducted by telephone conference call and any action taken on such call shall be recorded in the minutes of the next regularly scheduled Board of Directors meeting. Diligent efforts shall be made to notify each Board of Directors member of the planned teleconference.

### **B. Quorum.**

A quorum of the Gaming Board of Directors shall consist of a majority of the sitting members.

(Source: WOS 2004-08, November 21, 2004, Section V)

## **7.506 TRIBAL COUNCIL OVERSIGHT OF GAMING BOARD OF DIRECTORS**

**A.** The Tribal Council may review all action taken by the Gaming Board of Directors and may revoke or amend any such action.

**B.** In the absence of appropriate and timely action of the Gaming Board of Directors, the Tribal Council may adopt appropriate policies and procedures and take any other action necessary to promote the effective operation of the Tribe's Gaming Enterprises.

**C.** Tribal Council shall set the level of compensation for the Gaming Board of Directors.

(Source: WOS 2004-08, November 21, 2004, Section VI)

## **7.507 EMPLOYMENT WITH TRIBAL GAMING ENTERPRISES**

A member of the Gaming Board of Directors shall not be employed in any position with the Tribal Gaming Enterprises for a period of forty-five (45) days, after leaving the Board of Directors.

(Source: WOS 2004-08, November 21, 2004, Section VII)

### **7.508 NEPOTISM**

**A.** Two (2) or more members of the same immediate family shall not serve on the Gaming Board of Directors at the same time. Further, a person shall not serve on the Board of Directors if the general manager 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 or a person whose relationship with the tribal member is similar to that of persons who are related by blood or marriage.

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

(Source: WOS 2004-08, November 21, 2004, Section VIII)

### **7.509 SAVINGS CLAUSE**

In the event that any phrase, provision, part, paragraph, subsection or section of this ordinance 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, paragraph, subsection or section shall be considered to stand alone and to be deleted from this ordinance, the entirety of the balance of the ordinance to remain in full and binding force and effect.

(Source: WOS 2004-08, November 21, 2004, Section IX)

### **7.510 EFFECTIVE DATE**

This Statute shall take effect thirty days (30) from the date of enactment [November 21, 2004].

(Source: WOS 2004-08, November 21, 2004, Section X)

## **Chapter 6. Investment Policy**

### **7.601 PURPOSE**

It is the policy of the Little Traverse Bay Bands of Odawa Indians to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of the Tribe and comply with any applicable federal laws or regulations regarding federal program monies received and

administered by the Tribe.

(Source: WOS 2000-13, October 22, 2000, Section I)

### **7.602 DESIGNATION TO CARRY OUT POLICY**

As soon as practicable after enactment of this Statute, and thereafter at the last regular Tribal Council meeting of each calendar year, the Council will designate either a properly qualified employee or outside firm to carry out the directives of this Policy.

(Source: WOS 2000-13, October 22, 2000, Section II)

### **7.603 FUNDS TO WHICH THIS POLICY APPLIES**

This policy applies to all financial assets of LTBB including, but not limited to, funds derived through federally funded contracts and programs, such as Public Law 93-638 contract monies and Native American Housing Assistance Self Determination Act grants, and funds derived from LTBB's gaming enterprise. These assets are accounted for in the various bank accounts of LTBB which currently include primary checking, discretionary checking and several checking accounts held at 1<sup>st</sup> Community Bank.

(Source: WOS 2000-13, October 22, 2000, Section III)

### **7.604 INVESTMENTS**

**A. General Guidelines.** 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 fees incurred in making investments shall be paid with income from such investments.

**B. Investment of Contract and grant monies and prohibition on co-mingling.** When making and administering investments under the authority of this Statute, funds received under a specific federal contract or grant, or from any other governmental or private funding source for specific purposes, must be individually invested 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 or as determined by LTBB Tribal Administration. Short term guaranteed preservation of principal is essential for such funds. These funds will be invested in a manner that maximizes return within the absolute safety and time constraints, such as in money market accounts and certificates of deposit.

**C. Funds derived from the Enterprise and any other businesses or discretionary sources of Tribal income.** Discretionary funds of LTBB, including those derived from the Gaming Enterprise and any other sources of discretionary funding, shall be invested

in a diversified manner designed to meet both the short and long-term financial needs of LTBB. The employee or outside firm designated under Section II of this Statute shall review the annual budget prepared by the Tribal Council and consult with the Tribal Chairman, Tribal Treasurer, Tribal Administrator and Senior Tribal Accountant as necessary to determine the time frames in which LTBB will need to access such funds and prepare an appropriate portfolio to meet cash flow needs and provide for long-term growth.

**D. Investment Guidelines.** The employee or outside firm designated under Section II of this Statute shall only invest LTBB funds in the following:

1. FDIC or FSLIC insured savings accounts, money market accounts and certificates of deposit with major depositories possessing capital and surplus of \$2 billion or more, or one of the top 200 banks.
2. Commercial paper having a rating of A2/P1.
3. Fixed income securities that are classified as investment grade by Standard & Poor's (BBB or better) and Moody's (BAA or better).
4. Publicly traded stocks, bonds and mutual funds that are properly registered with the Securities and Exchange Commission, and given the highest ratings by Moody's, Standard and Poors or the Wall Street Journal.

**E. Prohibited Investments.** The employee or firm designated under Section III shall not invest any LTBB funds in commodities, private placements, letter stock and real estate or engage in short sales or margin transactions.

## **7.605 REPORTING**

**A.** The employee or firm designated under Section III shall meet with the Tribal Council annually at such time as requested by the Tribal Council to review past investment performance, evaluate the current investment outlook, discuss investment strategy, and, if the Investment Manager is an outside firm, report on any significant changes in management, research, personnel or ownership within such firm.

**B.** LTBB shall provide the employee or firm designated under Section III the annual budget, any amendments thereto, any pertinent information regarding accumulation of discretionary funds, any amendments to this statute, and any other information necessary for the Investment Manager to effectively carry out its responsibilities under this Statute.

(Source: WOS 2000-13, October 22, 2000, Section V)

## **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 LTBB use tax on rooms rented to non-LTBB members at Tribally owned facilities.

(Source: WOS 2003-04, May 18, 2003, Section I)

#### **7.702 DEFINITION**

For purpose of this Statute “**Hotel**” means any facility wholly owned by the Little Traverse Bay Bands of Odawa Indians that offers rental lodging to members of the public and is exempt from imposition of Michigan sales or use tax on rooms under the Tax Agreement executed on December 20, 2002, or any successor agreement.

(Source: WOS 2003-04, May 18, 2003, Section II)

#### **7.703 ROOM TAX**

The Little Traverse Bay Bands of Odawa Indians imposes a 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.

(Source: WOS 2003-04, May 18, 2003, Section III)

#### **7.704 USE OF FUNDS**

The funds collected under the authority of this Statute shall be used by the Tribal Government for discretionary use as determined by Tribal Council.

(Source: WOS 2003-04, May 18, 2003, Section IV)

#### **7.705 EFFECTIVE DATE**

This Statute takes effect immediately and in the event any Hotels have collected a sales tax after March 1, 2003, all such tax shall be disbursed to the Tribe in accordance with this Statute.

(Source: WOS 2003-04, May 18, 2003, Section V)