

TITLE III. ELECTIONS

Chapter 1. Tribal Elections and Election Board

3.101 PURPOSE

- A.** The Election Board is charged with the handling of all Primary, General, Referendum, Initiative, and Special elections properly called for under applicable Tribal law, as well as setting campaign guidelines for any tribal elections.
- B.** The Election Board is charged with maximizing the efficiency of the Election Board while respecting the Tribal Traditions, Values, and Culture of the Little Traverse Bay Bands of Odawa Indians.
- C.** This Statute repeals and replaces Waganakising Odawak Statute (WOS) 2004-06.

(Source: WOS 2006-026, December 29, 2006, Section I)

3.102 AUTHORITY

The Election Board is created to carry out express mandates within the Constitution as an independent entity and shall be adequately funded to fulfill its purposes.

(Source: WOS 2006-026, December 29, 2006, Section II)

3.103 ELECTION STATUTE

This statute establishes the proceedings and regulations to govern elections under the Constitution of the Little Traverse Bay Bands of Odawa Indians (LTBB) under the provisions of Public Law 103-324 or any successor Constitution adopted by the Tribe.

(Source: WOS 2006-026, December 29, 2006, Section III)

3.104 DEFINITIONS

- A.** “**Business Day**”. Any day of the week that the Tribal Administrative Offices are open.

- B. “Certified Signatures”.** Signatures which can be verified with the signatures on file with Enrollment, or Voter Registration forms on file with the Election Board, or power of attorney, and/or guardianship signatures. The Election Board may take personal verification of signatures from individuals.
- C. “Constitution”.** The Constitution adopted February 1, 2005, by the Tribal citizenship of Little Traverse Bay Bands of Odawa Indians.
- D. “Dates of Events”.** General Tribal Elections will be held on the last Monday in June of every odd numbered year. Other events are determined by special elections called by Tribal Council Referendum or Initiative. When the event, such as posting of election results, falls on a Saturday, Sunday or holiday, the event will take place on the next business day. When such changes are necessary the entire sequence of events shall be adjusted to maintain the required number of days between each event. Refer to Section IV(C).
- E. “Days”.** A period of time consisting of 24 hours including the solar day and night.
- F. “Election Notice”.** The official notice that an election will be held on a specific date established by the Election Board.
- G. “General Election”.** The election of Tribal Council members every two (2) years and the Tribal Chairperson/Vice Chairperson every four (4) years.
- H. “Initiative”.** An election held pursuant to article XIV of the Constitution.
- I. “Majority”.** 50% plus one of the votes cast in an election. Provided, that elections for Tribal Council and Tribal Chairperson/Vice Chairperson are determined by the highest vote recipients for each position which may or may not constitute a majority.
- J. “PL 103-324”.** “The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act” as signed into law on September 21, 1994.
- K. “Poll Official”.** An Election Board Member or any other appointee to the Election Board

serving at the polls on Election Day.

- L.** “**Polling Place**”. Location designated by the Election Board where balloting will take place.
- M.** “**Qualified Voter**”. All citizens of the Tribe eighteen (18) years of age or older at the time of election.
- N.** “**Referendum Election**”. An election held pursuant to Article XIV of the Constitution.
- O.** “**Registered Voter**”. Qualified Voters of the Tribe who have a Voter Registration Form on file with the Election Board ninety (90) days before the day of election.
- P.** “**Rejected Ballot**”. Ballot in which the intention of the voter cannot be determined.
- Q.** “**Replacement Ballot**”. A second ballot provided to the voter in the event of a lost or spoiled ballot.
- R.** “**Split Ballot**”. A ballot in which the intention of the voter can be determined in one race, but not the other.
- S.** “**Spoiled Ballot**”. A ballot that has markings other than what was originally on the ballot, provided the intention of the voter is not clear.
- T.** “**Submission to Election Board**”. All materials presented to the Election Board, with the exception of petitions which are protesting the results of an election shall be transmitted directly to the tribal court.
- U.** “**Tribe**”. The Little Traverse Bay Bands of Odawa Indians.
- V.** “**Valid Ballot**”. A ballot in which the intention of the voter is very clear.
- W.** “**Voter Registration Form**”. Form approved by the Election Board containing both the signature of the voter and a signature of a public notary or a legible copy of the following forms of identification: a valid Tribal Identification Card, Driver’s License, state issued

Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.

(Source: WOS 2006-026, December 29, 2006, Section IV)

3.105 COMPOSITIONS, APPOINTMENTS, OATH OF OFFICE, VACANCIES, AND REMOVAL OF ELECTION BOARD

A. Composition

1. The Election Board shall be appointed by Tribal Council and shall consist of five (5) enrolled Tribal citizens, eighteen (18) years of age or older who meet the voting eligibility requirements.
2. Election Board Officers - The Election Board shall organize itself with a Chairperson, Vice-Chairperson and a Secretary/Treasurer.
3. Election Board members cannot be candidates for any Tribal elected position while serving on the Election Board.

B. Appointment and Terms

1. The initial appointment of the Election Board will be for staggered terms consisting of two (2) two year terms and three (3) four year terms. The terms thereafter shall be for four (4) years.
2. There shall be no limit on reappointment.
3. Members will serve until their successors are appointed and sworn in.

C. Oath of Office

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

D. Vacancies

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

E. *Removal of Member of Election Board (Refer to Article XIII D. of the Constituion)*

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

(Source: WOS 2006-026, December 29, 2006, Section V)

3.106 TYPES OF ELECTIONS

A. Primary

- 1.** In the event that more than (2) candidates per office file sufficient petitions and are therefore certified as candidates for elective office in any scheduled election, a Primary Election shall be conducted to reduce the number of candidates in the General Election to two (2) candidates per office.
- 2.** In the event that a Primary Election is required under this Section, the Primary Election shall be conducted no less than forty five (45) days prior to the General Election. Ballots for the Primary Election shall be mailed no later than seventy five (75) days prior to the General Election.
- 3.** If a Primary Election is required under this Section, the schedule for distribution of Notice of Election and candidate filing dates shall be scheduled to coincide with the scheduled date of the Primary Election.
- 4.** If two (2) or less candidates file sufficient petitions for an elected office, then a Primary Election shall not be required and the standard election calendar shall apply.

B. General

The General Election shall be held the last Monday in June every two (2) years for the purpose of electing the Tribal Council members whose terms are expired and the Tribal Chairperson/Vice Chairperson every four (4) years. Provided, in the event of extraordinary circumstances beyond the Election Board's control rendering the holding of the election impossible, such as a tornado, act of war, or unplanned shut down of the Post Office, the Election Board may postpone Election Day until such event subsides.

C. Referendum (Refer to Article XIV B. Referendum in the Constitution)

- 1. The Tribal Council may decide by an affirmative vote of six (6) Council members to submit any proposed or any enacted statute to a vote of registered Tribal voters at a referendum election.*
- 2. The procedure for a referendum election shall be as follows:*
 - a. Referendum elections shall be held no sooner than forty five (45) days and no later than ninety (90) days from the date the proposed or existing statute is referred to the Election Board. The date of the referendum election shall be set by the Election Board.*
 - b. A referendum proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians who were registered on the day it was referred by the Tribal Council to the Election Board cast ballots in said election. If less than twenty percent (20%) of the registered voters of the Tribe casts ballots in said election, the referendum shall be deemed to be defeated.*
- 3. Petition procedure and signature verification**
 - a.** Shall be submitted on the official form approved by the Election Board.
 - b.** All information requested on the form must be filled in completely and

legibly. Incomplete or illegible information is grounds for disqualification.

c. Petitions submitted to the Election Board must be date and time stamped. A receipt reflecting the number of pages accepted must be issued to the petitioner.

d. The Election Board shall not add to or in any way alter anything contained in the Petition. Only petitions that are complete as submitted shall be deemed valid.

e. The Election Board shall review and validate all signatures on the petition. A valid signature is that of a registered voter whose signature can be determined to be the same as that appearing on official voter registration documents.

D. *Initiative (Refer to Article XIV A. Initiative and Referendum in the Constitution)*

1. Initiative is the power of the Tribal Members to propose laws and to enact or reject them in an election. The members of the Little Traverse Bay Bands of Odawa Indians shall have the power to adopt, by initiative, any statute, and the power to repeal or amend any statute in accordance with the provisions of this Article; provided that statutes addressing appropriations for Tribal institutions or statutes establishing the Tribal budget shall be exempt from the initiative process.

2. The procedure for initiative shall be as follows:

a. The proponents of an initiative shall submit it to the Election Board for examination as to technical sufficiency and to ensure clarity before it is circulated. The Election Board shall deliver its written comments to the proponents within thirty (30) days.

b. Initiative petitions must be signed by a number of registered voters equaling twenty percent (20%) of the registered voters who voted in the last general election. After the signatures have been verified by the Election Board, the Election Board shall schedule an election.

c. If a general election is scheduled to be held less than twelve (12) months

from the date the Election Board has verified the petition, the initiative will be scheduled for a vote at that general election. If the next general election is scheduled for a time more than twelve (12) months after the verification, a special election shall be scheduled.

d. An initiative proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty (20%) of the registered voters who are registered on the day of submission of the petition cast ballots in said special election. If less than twenty percent (20%) of the registered voters of the Tribe cast ballots in said election, the initiative shall be deemed to be defeated.

e. If an initiative is defeated in an election, the same matter cannot again be the subject of an initiative election for two (2) years.

E. Recall (Refer to Article XIII A. Recall in the Constitution)

1. The Chairperson, Vice Chairperson or Tribal Council Members may be subject to recall at any time under the following procedure:

a. A recall petition signed by a number of registered voters equaling twenty (20%) of the registered voters who voted in the last general election is presented to the Election Board. All petitions must be on forms approved by the Election Board.

b. Within ten (10) business days of receipt of the petition, the Election Board shall either certify the validity of the petition and signatures or return it to the citizen who submitted it with a written explanation of the defect.

c. A recall election shall be scheduled by the Election Board within ninety (90) days upon verification of the petition and its signatures.

d. The elected official shall be recalled upon a majority vote if at least thirty percent (30%) of the registered voters vote in the recall election.

e. To provide for continuity of governance no more than four (4) Tribal

Council members shall be subject to a recall election at any one time.

2. *Each elected official may be subject to no more than one (1) recall election per calendar year.*

(Source: WOS 2006-026, December 29, 2006, Section VI)

3.107 REGISTRATION AND VOTING

A. Candidate Qualifications

1. Enrolled Tribal citizen eighteen (18) years of age or older at the time of election.
2. Tribal Citizens serving on Tribal Council , or Chairperson/Vice Chairperson, may not be employed under the Tribal Government Administration, nor may be a paid consultant for the Tribe, or a consultant for another party in that party's dealings with the Tribe.
3. No person shall serve as Tribal Council, Chairperson or Vice Chairperson within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.
4. The Chairperson and Vice Chairperson will reside within the Reservation of the Tribe no later than ninety (90) days after the general election for the term of their office.

B. Registration

1. This section sets out procedures to ensure that a vote cast in the name of the voter is in fact cast by that voter.
2. Each Tribal citizen who desires to vote in an election, must have a Voter Registration Form on file with the Election Board ninety (90) days before the day of election.
3. The Voter Registration Form shall be in a format approved by the Election Board.

4. The Voter Registration Form must be signed by the Tribal citizen and verified either by (1) the seal and signature of a notary public or (2) attaching a legible copy of one of the following forms of identification: a valid Tribal Identification Card, Driver's License, state issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.

5. It is the responsibility of each Tribal citizen who wishes to vote in an election to ensure that he or she has submitted a Voter Registration Form to the Election Board.

6. Any voter who changes his or her name shall submit a new Voter Registration Form to the Election Board.

7. Based on the Voter Registration Forms submitted to the Election Board, the Election Board shall keep a roster of voters known as the Poll Book with voters listed in alphabetical order or nearly so as possible. The Election Board shall update the Poll Book as Voter Registration Forms are submitted.

C. Voting

1. Voting shall be done by secret ballot mailed to all Tribal citizens registered to vote under subsection (B) above.

2. All ballots shall be sent with a self-addressed stamped return envelope.

3. All ballots mailed to the Election Board must be received at the designated Michigan Post Office no later than 4:00 p.m. on Election Day or hand delivered to the Polling Place by 6:00 p.m. Ballots may be hand delivered to the Polling Place on Election Day only.

4. No voter shall cast more than one ballot in any election.

5. No write-in candidates will be allowed.

6. Replacement ballots will be available upon request by mail, or at the polling place

on the day of election. Only one ballot per voter will be counted in the final results.

(Source: WOS 2006-026, December 29, 2006, Section VII)

3.108 COUNTING, POSTING, AND RETENTION OF BALLOTS

A. Ballot Counting

1. All ballots will be opened, counted, and recorded by the Election Board in an open meeting.
2. In the event of a split ballot, the vote that can be determined will be counted.

B. Posting of Preliminary Results

1. The preliminary results will be posted as follows:
 - a. Within twenty four (24) hours after the closing of the polls in one visible and accessible place designated by the Election Board.
 - b. Within three (3) business days on the Little Traverse Bay Bands of Odawa Indians website.

C. Certification of Election Results

The election shall be certified by the Election Board within ten (10) business days after the closing of the polls, providing there are no unresolved challenges pending.

D. Election Results Challenges

Ten (10) business days after the preliminary election results are posted, all election results shall be declared final, unless the results are protested. Any registered Tribal voter may protest the results of an election by filing a written protest with the Tribal Court within ten (10) calendar days after the preliminary results are posted. The Tribal Court must act in an expedient manner on any protest received, in all cases reaching a decision within twenty (20) days of the

date of the filing of a protest.

E. Retention of Ballots

1. The Election Board shall retain all ballots in sealed containers, including ballots that were determined not to be valid for any reason, until the election is deemed final.
2. Upon finalization of election results, ballots will be retained in secure containers for one year.

(Source: WOS 2006-026, December 29, 2006, Section VIII)

3.109 NOMINATIONS, ELECTIONS, AND TIME FRAMES

A. Nominations Procedures

1. Nominations for candidates are placed on petitions designated by the Election Board.
2. Candidates must be enrolled Tribal citizens and eighteen (18) years of age or older.
3. The nomination petitions shall contain the signature and Tribal enrollment numbers, and/or birth date of twenty five (25) registered voters.
4. A registered Tribal voter may sign more than one nominating petition.
5. Petitions will be prepared and mailed by the Election Board to all citizens registered to vote at least one hundred thirty four (134) calendar days prior to the election.
6. Nomination petitions must be submitted to the Election Board no less than one hundred four (104) calendar days prior to the election.
7. Candidates shall submit a written statement on a form prepared by the Election

Board and any other documentation requested along with their nomination petition.

8. The Election Board shall review and validate all petitions received within the time frame of one hundred four (104) calendar days and prepare a final list of candidates no later than ninety (90) calendar days prior to the election.

9. Candidates wishing to withdraw their names will do so in writing no less than forty five (45) calendar days prior to the election.

10. The Election Board shall prepare the election ballots and mail them to all registered voters no less than thirty (30) calendar days prior to the election.

11. Names on the ballots will appear in the order in which their nominating petition is received.

12. Names shall appear on the ballot as they are printed on the nomination petition.

13. No Election Board member may sign any petitions except in the petition validation process.

14. Two Election Board members shall sign, time and date all petitions after validation process.

B. Election Day Procedures

1. Polls open at 9:00 a.m. at a place designated by the Election Board and announced to the citizenship through the election notices.

2. The Election Board Chairperson or Election Board Vice-Chairperson and one other member of the Election Board and a Tribal Police Officer will go to the Post Office to retrieve the ballots.

3. Ballots are brought back to the polling place, removed from the envelopes, and placed in the ballot box.

4. The envelopes are counted and the citizenship numbers are recorded by the Election Board.
5. Ballots are opened and tabulated. Results of the tabulations are recorded by the Election Board. The Election Board may use electronic means to tabulate ballots.
6. At 4:00 p.m., the Election Board Chairperson or Election Board Vice-Chairperson and another member of the Election Board and a Tribal Police Officer leave to make the final pick-up from the Post Office.
7. These ballots are then processed as described above.
8. Polls close at 6:00 p.m. and the counting and recording continue until all the ballots are recorded and tabulated.
9. Ballots will not be accepted after 6:00 p.m. eastern standard time.
10. The preliminary results are posted as follows:
 - a. In one visible and accessible place designated by the Election Board within twenty four (24) hours after the closing of the polls.
 - b. Within three (3) business days on the Little Traverse Bay Bands of Odawa Indians website.

C. Ties

1. General Election
 - a. In the event that at the completion of the canvas of the General Election results the tally reveals that any candidate has received the same number of votes as received by another candidate in that contest, the Election Board will conduct a recount of the ballots cast in that contest. Should a tie exist at the completion of the recount, the Election Board will conduct a special run-off election limited to the tied candidates unless the breaking of such tie will not affect the outcome of

the election. Such a run-off election shall be immediately noticed to be held not more than forty five (45) days from the date of the General Election.

b. The same procedure will be followed for a tie in a referendum election.

2. Announcement of Results – Run-off Election

An uncertified statement shall be issued and posted to announce the election results within three (3) days following completion of the canvas of the election.

D. Recounts

Any contest that ends with a margin of less than one percent shall be subject to an automatic recount. A second machine shall be used for the recount. Recount of elections that end with a margin of one percent or greater shall not be subject to recount except in cases where a candidate has shown the Tribal Court credible evidence of fraud that would change the election results.

E. Poll Sitters

Poll sitters are person who by contractual agreement observe the activities of the election process at the polling place on Election Day. They shall not interfere in any way with the proceedings.

F. Poll Watchers

Each candidate for a position on Tribal Council is entitled to have one person observe on their behalf, the counting of ballots at the polling place on Election Day. The name of that person shall be submitted on a form approved by the Election Board to the Election Board prior to Election Day. They shall not interfere in any way with the proceedings.

G. Campaigning

1. Campaigning for Tribal offices is prohibited in Tribal Governmental Operations buildings during normal business hours.

2. A written campaign financial statement must be submitted, signed and dated, by each candidate to the Election Board within thirty (30) calendar days after the final official certification of the election.

H. Oath of Office

At the first regularly scheduled Tribal Council meeting after the certification of the election results, the Tribal Court will conduct the swearing in ceremony for the newly elected citizens. Incoming Council members' terms shall commence, and outgoing Council members' terms shall expire, upon such swearing in.

(Source: WOS 2006-026, December 29, 2006, Section IX)

3.110 VIOLATIONS AND PENALTIES

A. Conflict of Interest

An Election Board member shall recuse him or herself from any certification involving an immediate family member. A member of an immediate family for purposes of this statute is any person living in the candidate's household, or a parent, brother, sister, spouse, son, or daughter of the candidate.

B. Bribery of Electors

It is unlawful to knowingly give, cause to be given, or promise to be given, any money to any person as reimbursement for money, or other thing of value, expended by such person in whole or in part for bribery at any Tribal election: provided, however, that it shall not be unlawful for any candidate personally or by agent to provide transportation to the polls of any voter.

C. Coercion of Elector

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

any election.

D. Intimidation of Tribal Citizen Employees by Employer

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

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

E. Interference With or Corruption of Election Officer

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

F. Violation of Duty by Election Board

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

G. Tampering With Election Ballots

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

H. Penalties

Any violation of this section shall be considered a civil infraction with penalties not to exceed five thousand dollars (\$5,000.00).

(Source: WOS 2006-026, December 29, 2006, Section X)

3.111 SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

(Source: WOS 2006-026, December 29, 2006, Section XI)

3.112 EFFECTIVE DATE

This Statute shall take effect immediately upon enactment.

(Source: WOS 2006-026, December 29, 2006, Section XII)