

**CONSTITUTION
OF THE
LITTLE RIVER BAND OF OTTAWA**

PREAMBLE

We, the Little River Ottawa people have asserted our sovereignty throughout history including in the Treaty of Chicago [August 29, 1821; 7 Stat 218], the Treaty of Washington [March 28, 1836; 7 Stat 491], and the Treaty of Detroit [July 31, 1855; 11 Stat 621].

Between the last treaty and the present day, the Grand River Ottawa people who became the Little River Band of Ottawa Indians were known and organized under several names, including members of “Indian Village” on the Manistee River, residents of the Pere Marquette Village or “Indian Town”, Unit No. 7 of the Northern Michigan Ottawa Association, the Thornapple River Band, and finally the Little River Band of Ottawa Indians.

On September 21, 1994, Public Law 103-324 (108 Stat 2156) was enacted, reaffirming federal recognition of and confirming the sovereignty of the Grand River Bands comprising the Little River Band of Ottawa Indians (referred to as the Tribe or Little River Band).

As an exercise of our sovereign powers, in order to organize for our common good, to govern ourselves under our own laws, to maintain and foster our tribal culture, provide for the welfare and prosperity of our people, and to protect our homeland we adopt this constitution, in accordance with the Indian Reorganization Act of June 18, 1934, as amended, as the Little River Band of Ottawa Indians.

ARTICLE I. TERRITORY

Section 1 – Territory. The territory of the Little River Band of Ottawa Indians shall encompass all lands which are now or hereinafter owned by or reserved for the Tribe, including the Manistee Reservation in Manistee County (Michigan), Custer and Eden Townships in Mason County (Michigan) and all lands which are now or at a later date owned by the Tribe or held in trust for the Tribe or any member of the Tribe by the United States of America.

Section 2 - Jurisdiction Distinguished From Territory. The Tribe’s jurisdiction over its members and territory shall be exercised to the fullest extent consistent with this Constitution, the sovereign powers of the Tribe, and federal law.

ARTICLE II – MEMBERSHIP

Section 1 - Eligibility for Membership. An individual is eligible for membership in the Tribe, if he/she possesses at least one-fourth (1/4) degree Indian blood, of which at least one-eighth (1/8) degree must be Grand River Ottawa or Michigan Ottawa blood and:

(a) Is a lineal descendant of a member of the historic Grand River Bands who resided in Manistee, Mason, Wexford or Lake Counties in the State of Michigan, who was listed on the schedule of Grand River Ottawa in the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910; or,

(b) Is a lineal descendant of individuals listed on the 1870 Annuity Payrolls of Chippewas and Ottawas of Michigan listed under the following Ottawa Chiefs:

Kewacushkum	Pay-quo-tush	Me-tay-wis
Shaw-be-quo-ung	Penayse	Kaw-gay-gaw-bowe
Maw-gaw-ne-quong	Ching-gawa-she	Aken Bell; and,

(c) Is not currently enrolled in any other federally recognized Indian Tribe, band, or group.

Section 2 – Membership Rights of Children Who Have Been Adopted. Any child who is less than 18 years of age, who meets the membership criteria in Section 1, shall be eligible for membership, notwithstanding such adoption.

Section 3 - Dual Membership Prohibition. Any member of the Little River Band who applies for and is accepted as a member of another federally recognized Indian Tribe or band shall be subject to disenrollment in accordance with Section 4 of this Article.

Section 4 - Membership Procedure. The Tribal Council shall establish ordinances governing membership, including but not limited to enrollment and disenrollment; Provided that the Tribal Council shall not have the power to change or establish substantive requirements for membership in addition to those established in this Article.

Section 5 - Right of Appeal. Any person whose application for membership has been denied, or any member who has been disenrolled, shall have the right to appeal to the Tribal Court.

ARTICLE III - CONSTITUTIONAL RIGHTS

Section 1 - Civil Rights. The Little River Band in exercising the powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year or a fine of five thousand dollars (\$5000.00), or both, or the maximum penalty allowed under Federal law;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any legislation, directed against a designated person, pronouncing him/her guilty of an alleged crime, without trial or conviction or ex post facto law, which retroactively changes the legality or consequences of a fact or action after the occurrence of that fact or commission of the act;
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons;
- (k) Make or enforce any law unreasonably infringing the right of tribal members to keep and bear arms; or
- (l) The enumeration of rights in this Constitution shall not be construed to deny or disparage other rights retained by tribal members.

Section 2 - Access to Tribal Records. Subject to any express limitations contained in this Constitution, the laws of the United States, and individual Tribal members' and Tribal employees' rights to privacy, members of the Tribe shall be provided access to review the records of Tribe including, but not limited to: minutes of all meetings of the Tribal Council or other subdivisions of the Tribal government, Tribal budgets and financial reports of Tribal expenditures; provided that such review shall be conducted during normal office hours.

ARTICLE IV - TRIBAL COUNCIL

Section 1 - The legislative powers of the Little River Band shall be invested in the Tribal Council.

Section 2 - *Composition of the Tribal Council.*

(a) The Tribal Council shall consist of nine (9) persons, elected by popular vote of the registered voters of the Tribe in the manner described in this Section and Article IX.

(b) Tribal Council positions shall be elected by the membership from the following districts:

1. Six (6) of the nine (9) members of the Tribal Council shall be elected by the registered voters of the Tribe who reside in the following Counties in the State of Michigan: Kent, Lake, Manistee, Mason, Muskegon, Newago, Oceana, Ottawa and Wexford;

2. Two (2) of the nine (9) members of the Tribal Council shall be elected by all of the registered voters of the Tribe;

3. One (1) of the nine (9) members of the Tribal Council shall be elected by those registered voters of the Tribe residing outside the nine (9) county district defined in subsection 2(b)(1) of this Section.

(c) The Council shall select two (2) Council members, by majority vote of the Council, to serve as Council Officers: Speaker and Recorder. Officers terms shall be two years. A single Council member may not hold both Officer positions.

Section 3 - *Qualifications.* Any member of the Tribe who is twenty-one (21) years of age or older who has resided within the State of Michigan for at least six (6) months prior to the date of the next scheduled election may serve on the Tribal Council.

Section 4 - *Terms of Office.*

(a) Except as provided for in Section 1 of Article IX in this Constitution each Tribal Council member's term of office shall be four (4) years.

(b) Tribal Council members shall continue in office until their successors are sworn in by the Tribal Court, their office is deemed vacant, or they are removed from the Tribal Council.

(c) If any Tribal Council member ceases to be a member of the Tribe, he or she shall automatically forfeit his or her Council position.

(d) If any Tribal Council member ceases to be a resident of the State of Michigan, he or she shall automatically forfeit his or her Council position.

(e) There shall be no prohibition against continuous service.

Section 5 - *Council Officers Duties.*

(a) *Speaker.* The Speaker of the Council shall:

1. Preside at all meetings of the Tribal Council.

2. Call special meetings of the Council, when appropriate.

3. Receive reports from the committees or commissions and deliver such reports to the Council.

4. Perform the duties of the Tribal Ogema in the absence of or due to the inability of the Ogema to perform those duties.

(b) *Recorder*. The Recorder of the Council shall:

1. Submit a record of the minutes of all Tribal Council meetings, and make such reports available to the membership of the Tribe.
2. Keep the Members informed as to the status of the activities of the Council and all other matters affecting the Tribe and its members.
3. Maintain and protect the Tribal Seal.
4. Perform the duties of the Speaker if the Speaker is absent or unable to fulfill those duties.

Section 6 - Meetings of the Tribal Council.

(a) *Regular Meetings*. The Tribal Council shall meet in regular session at least once every month at a time and place to be set by the Tribal Council. The schedule of meetings for regular sessions of the Tribal Council for the next calendar year shall be set by resolution of the Tribal Council at the last regular session of each calendar year. The meeting schedule for each calendar year shall be published and made available to the General Membership.

(b) *Special Meetings*. A special meeting of the Tribal Council may be held under the following conditions:

1. A special meeting shall be called (i) upon written request of the Tribal Ogema submitted to the Council Recorder, (ii) upon written request, submitted to the Tribal Ogema or Council Recorder, by two (2) members of the Tribal Council, (iii) upon written request, submitted to the Tribal Ogema or Council Recorder, signed by at least ten percent (10%) of the Tribal Elders, fifty-five (55) years or older; or (iv) upon a petition of ten percent (10%) of the registered Tribal voters requesting a meeting submitted to the Tribal Ogema or Council Recorder.
2. There shall be at least seventy-two (72) hours written notice sent to the Council members at each member's designated regular mailing address. Notice shall also be posted in the Tribal Office or Governmental Center. No business may be transacted if proper notices have not been mailed and posted. The notice shall specify all business to be addressed, and no matter which is not included in the notice may be addressed at the meeting.

(c) *Emergency Meetings*. Emergency meetings of the Tribal Council may be called by the Tribal Ogema or Speaker upon less than seventy-two (72) hours written notice, if such meetings are necessary for the preservation or protection of the health, welfare, peace, safety or property of the Tribe. Efforts shall be made to ensure that each Tribal Council member receives notice of such meetings. Where practical, notice shall be posted at the Tribal Office or Governmental Center. Notices shall state the purpose, time and place of the meeting. No business other than that stated in the notice shall be transacted at such meetings.

(d) *Open Meetings; Closed Sessions*. All meetings of the Tribal Council shall be open to the Tribal Membership. However, the Council may meet in closed session for the following purposes:

1. Personnel Matters, provided the employee in question did not request a public meeting, or
2. Business matters involving consideration of bids or contracts which are privileged or confidential, or
3. Claims by and against the Tribe.

Minutes shall be maintained relating to all business conducted in open or closed session. The general reason for a determination to meet in closed session shall be placed on the record in open

session. The minutes of business conducted in closed session shall be maintained in a closed file in perpetuity; however, such minutes of closed sessions may be opened to the public upon a vote of the majority of the Tribal Council, upon final disposition of the matter concerned or upon order of the Tribal Judiciary. Upon conclusion of a closed session, announcement of the resumption of open session shall be made before adjournment.

(e) *Rules of the Tribal Council.* The Tribal Council shall determine its own rules of procedure for meetings of the Tribal Council, subject to any limitations imposed in this Constitution. Such rules and procedures shall provide for an opportunity for the General Membership to be heard on any question under consideration by the Tribal Council.

(f) *Quorum required to conduct business.*

1. A quorum of the Tribal Council shall consist of six (6) members, provided at least four (4) of the six (6) members present represent the nine (9) county district defined in subsection 2(b)(1) of Article IV.

2. When a Council Member has a personal interest in an issue or matter to be voted on by the Council, other than those common to all Tribal Members, which would require balancing personal interest against interests of the Tribe, such member shall abstain from voting on that matter due to conflict of interest and shall disclose the nature of the conflict.

3. The fact that a member may not vote on an issue due to conflict of interest shall not prevent that member from voting on other matters or from determining a quorum's existence.

4. Failure to disclose a potential conflict of interest is cause for removal, and where a matter of potential conflict has been disclosed, the Council shall determine by majority vote whether a member shall abstain from voting, although no member shall be compelled to vote regarding an issue as to which he or she believes a conflict exists.

(g) *Action by the Tribal Council.*

1. The Tribal Council shall act only by ordinance, resolution or motion.

2. Tribal Council action shall be determined by a majority of the quorum present and voting at the meeting, unless otherwise specified in this Constitution, and minutes shall identify each Council Member's vote on every issue.

Section 7 - Powers of the Tribal Council. The legislative powers of the Little River Band of Ottawa Indians shall be vested in the Tribal Council, subject to any express limitations contained in this Constitution. The Tribal Council shall have the power, including by way of illustration, but not by limitation:

(a) To exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members;

3. to provide by ordinance for the jurisdiction of the Tribe over Indian Child Welfare matters, and all other domestic relations matters;

4. to provide for the manner of making, holding and revoking assignments of the Little River Band's land or interests therein;

- (b) To authorize and ratify agreements and contracts negotiated by the Tribal Ogema on behalf of the Little River Band with federal, state and local governments and other Indian tribes or their departments or political subdivisions, or with private persons on all matters within the authority of the Tribal Council;
- (c) To purchase, lease, take by gift, take by devise or bequest, or otherwise acquire land, interests in land, personal property or other assets which may be deemed beneficial to the Little River Band;
- (d) To approve or veto any sale, disposition, lease or encumbrance of Little River Band land, interests in land, personal property or other assets;
- (e) To employ legal counsel, subject to the approval of the Secretary of the Interior so long as such approval is required by Federal law;
- (f) To create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Little River Band, provided that no such commission or subordinate organization shall exercise powers of the Tribal Council unless they are expressly delegated by the Tribal Council;
- (g) To establish rules and procedures to regulate all meetings of the Tribal Council, standing committees, special committees and such other regulatory commissions or subordinate organizations created by ordinance;
- (h) To approve appointments to the Tribal Court, regulatory commissions and heads of subordinate organizations created by ordinance;
- (i) To exercise the following fiscal powers:
 - 1. Subject to the veto of the Tribal Ogema, to adopt, approve or amend the annual budget presented by the Tribal Ogema and to authorize the expenditure of funds in accordance with such budgets;
 - 2. To manage any funds within the exclusive control of the Little River Band and to appropriate these funds for the benefit of the Tribe and its members. All expenditures of funds shall be pursuant to appropriations or budgets authorized by resolution or in accordance with ordinances of the Tribal Council;
 - 3. To levy duties, fees, taxes and assessments on any person, natural or corporate, residing or doing business within the territorial jurisdiction of the Little River Band;
 - 4. To borrow money or to issue temporary or long term evidence of indebtedness for public purposes and to secure the repayment thereof;
- (j) To take action, not inconsistent with this Constitution or Federal law, which shall be necessary and proper to carry out the sovereign legislative powers of the Tribe.

Section 10 - Tribal Powers and Rights Not Limited.

- (a) Any rights and powers heretofore vested in the Little River Band but not expressly referred to in this Constitution shall not be diminished, abridged, or divested by this Article.
- (b) The Tribal Council may exercise such additional powers as may be conferred upon the Tribe in the future by law, by the Secretary of the Interior, or by any other duly authorized official or agency of the federal government, state or local government, or by another Indian tribe.

ARTICLE V - TRIBAL OGEMA

Section 1 - The Executive powers of the Little River Band shall be invested in the Tribal Ogema.

Section 2 - Qualifications. Any member of the Tribe who is twenty-five (25) years of age or older, who has resided within the nine (9) county district defined in subsection 2(b)(1) of Article IV, for

at least six (6) months prior to the date of the next scheduled election may serve as Tribal Ogema.

Section 3 - Term of Office.

- (a) The Tribal Ogema's term of office shall be four (4) years.
- (b) The Tribal Ogema will continue in office until his/her successor is sworn in by the Tribal Court, the office is deemed vacant, or he/she is removed as the Tribal Ogema.
- (c) If the Ogema ceases to be a member of the Tribe, he/she will automatically forfeit the Ogema position.
- (d) If the Ogema ceases to reside in the nine (9) county district defined in subsection 2(b)(1) of Article IV, he/she will automatically forfeit the Ogema position.
- (e) There shall be no prohibition against continuous service.

Section 4 - Election of the Tribal Ogema. The Tribal Ogema shall be the candidate seeking the office who receives a majority of the tribal vote cast for that position. If no one (1) candidate receives a majority of the votes cast, a run-off election shall be held between the two (2) highest vote recipients.

Section 5 - Powers of the Ogema.

- (a) Subject to any limitations contained in this Constitution, the Tribal Ogema of the Little River Band shall be invested with the executive powers of its inherent sovereignty including, but not limited to:
 - 1. To enforce and execute the laws, ordinances and resolutions of the Tribal Council, consistent with this Constitution.
 - 2. To oversee the administration and management of the Tribal government in accordance with the laws, resolutions, and motions adopted by the Tribal Council.
 - 3. To consult, negotiate, and execute agreements and contracts on behalf of the Little River Band with federal, state, and local governments and other tribal governments, or with private persons or organizations. Agreements and contracts reached must be approved or ratified by Tribal Council to be effective.
 - 4. With the approval of the Tribal Council, to appoint members to the Tribal Court, members of all regulatory commissions, and heads of subordinate organizations created by ordinance (Art. IV, Sec. 9(h)).
 - 5. Timely prepare and present the annual Tribal Budget to the Tribal Council for approval or other action and to keep the Tribal Council fully advised as to the financial condition and needs of the Tribe, preparing monthly reports for the Council, and making quarterly reports available to the membership.
 - 6. To have veto power over actions of the Tribal Council modifying the Tribal Budget or appropriations items as provided in subsection (c) of this Section 5.
 - 7. To collect taxes or assessments against members, non-members and businesses.
 - 8. To manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.
 - 9. To exclude from the lands of the Tribe persons, or other entities, not legally entitled to be present thereon.
- (b) The Tribal Ogema shall receive for his/her services a compensation to be established by the Tribal Council, which shall not be diminished during his/her continuance in office.
- (c) Every action taken by the Tribal Council, whether by ordinance, resolution or appropriation, which modifies the Tribal Budget submitted for approval by the Tribal Ogema, shall be presented to the Tribal Ogema for his/her approval and signature before it

becomes effective. The Tribal Ogema shall approve or disapprove of the action taken by the Tribal Council within seven (7) days after the item is submitted to the Tribal Ogema by the Tribal Council. If he/she disapproves of the action taken by the Tribal Council, he shall return it to the Tribal Council within the seven (7) days provided, specifying his/her objections. If after re-consideration, it again passes the Tribal Council by an affirmative vote of six (6) of the nine (9) Tribal Council members, it shall become law and he/she shall sign it notwithstanding his/her objections.

ARTICLE VI - TRIBAL COURT

Section 1 - The judicial power of the Little River Band shall be invested in a Tribal judiciary, which shall consist of the Tribal Court, a Court of Appeals, and such inferior courts as the Tribal Council may from time to time ordain and establish.

Section 2 - *Qualifications.*

(a) *Member of the Tribe.* Any member of Tribe may serve as a Tribal Judge provided he/she is twenty-five (25) years of age or older, is not a member of the Tribal Council or running for a seat on the Tribal Council, and has not been convicted of any crime of dishonesty, or moral turpitude, nor been convicted of a felony under Tribal, or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

(b) *Non-Member Qualifications.* A non-member of the Tribe may be appointed to or elected to serve as a Tribal judge if such individual possesses a Law degree and has practiced in Federal Indian law or as a tribal judge, and has not been convicted of any crime involving dishonesty, moral turpitude, nor been convicted of a felony under Federal, Tribal or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

Section 3 - *Composition of the Tribal Court System.*

(a) *Tribal Court.* The Tribal Court shall be a court of general jurisdiction and shall consist of one (1) judge and one (1) associate judge who shall meet as often as circumstances require.

(b) *Court of Appeals.* The Tribal Court of Appeals shall consist of three (3) judges. At least one (1) of the three (3) judges shall be an elder (age 55 years or older) in the Tribe, and at least one (1) of the three (3) judges shall be an attorney licensed to practice before the courts of a state in the United States.

Section 4 - *Appointment and Compensation.*

(a) Judges of the Tribal Court, including the Court of Appeals, shall be elected by the registered voters.

1. *Current Judges.* The current tribal judges as of adoption of these amendments shall identify the following:

A. Tribal Court judges shall determine staggered terms from amongst themselves and new terms shall be set at either two year or four years. Each term thereafter shall be set as set forth in Section 5(a).

B. Court of Appeals judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).

2. *Declaration of Tribal Court or Court of Appeals Candidacy.* Candidates shall declare their intention to run for a position on the Tribal Court or the Court of

Appeals. Provided that, the Election Board shall identify positions on the Court of Appeals requiring specific qualifications as identified in Section 3(b). Where no candidate, at the conclusion of any deadlines set by the Election Board, declares for a position on the Court of Appeals requiring specific qualifications, the Tribal Ogema shall appoint, and the Tribal Council shall approve a judge for that vacancy.

(b) *Compensation.* The Tribal Council shall have the power to establish the level of compensation for each judge; provided that the compensation due to each individual judge shall not be diminished during the term of his/her appointment.

(c) Tribal Judges shall be sworn in by the Speaker of the Tribal Council.

Section 5 - Term of Office.

(a) Except as provided for in Section 6 of this Article VI, the term of office for all Tribal Judges shall be six (6) years.

(b) Tribal Judges will continue in office until a successor is sworn in.

(c) There shall be no prohibition against continuous service.

Section 6 - Resignation or Removal.

(a) *Resignation.* A Tribal Judge may resign his/her office at any time. Resignation is immediate upon a Judge submitting written notice to the Tribal Council of his/her resignation.

(b) *Removal.* A Tribal Judge may only be removed by a vote of seven (7) of the nine (9) Council Members following a recommendation of removal by a majority of the remaining Tribal Judges for the following reasons:

1. Unethical conduct, as defined by the Michigan Indian Judicial Association Model Code of Tribal Judicial Conduct;
2. Gross misconduct or malfeasance in office that is clearly prejudicial to the administration of justice;
3. Ineligibility, under Section 2 of this Article, to serve as a member of the Tribal Court;
4. Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he or she is incapable of exercising judgment about or attending to the duties of the Tribal Court. Such determination shall be based upon or supported by competent medical evidence or opinion.

If a member of the Tribal judiciary obtains information which indicates that grounds exist for removal of another judge, he/she shall provide written notice of the charge and specify the facts supporting such charge to all Tribal Judges, including the accused. The Judge so charged shall be notified so he/she may answer the charges at a public hearing of all members of the Tribal Court held for that purpose. Such hearing shall be noticed at least ten (10) days prior to the hearing at which the Judge's referral for removal is to be considered. If a majority of the remaining of the Tribal Court vote to refer the Judge to the Tribal Council for removal, the grounds for removal shall be set forth with specificity and the Tribal Judge shall be suspended from office until the Tribal Council acts on the referral at a public meeting of the Tribal Council held to consider that referral. At least ten (10) days before the meeting of the Tribal Council at which the vote for removal will be taken, the affected judge shall be provided with a written notice of that meeting. Before any vote for removal is taken, the affected judge shall be provided with a reasonable opportunity to answer the charges at the Tribal Council meeting. If the Tribal Council, by affirmative vote of seven (7) of the nine (9) Council members, finds that grounds for removal as stated by the Tribal Court exist, the Tribal Council shall remove the judge from office. If the Tribal Council find that the grounds

for removal do not exist, the suspended judge shall be fully reinstated to the Tribal Court.

Section 7 - Vacancy. A vacancy in any Judicial position resulting from a Judge's death, resignation, removal, or recall shall be filled in the same manner as set forth in Article X, Section 4. The term of office for any Tribal Judge appointed under this Section shall be for the remainder of the vacant term.

Section 8 - Powers of the Tribal Court

(a) The judicial powers of the Little River Band shall extend to all cases and matters in law and equity arising under this Constitution, the laws and ordinances of or applicable to the Little River Band including but not limited to:

1. To adjudicate all civil and criminal matters arising within the jurisdiction of the Tribe or to which the Tribe or an enrolled member of the Tribe is a party.
2. To review ordinances and resolutions of the Tribal Council or General Membership to ensure they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution.
3. Hear cases based on ordinances and laws of the Tribe for purpose of determining innocence or guilt where trial by jury has been waived.
4. Assign fines and penalties as allowed for violations of Tribal law, as allowed by Tribal and Federal Law.
5. Grant warrants for search to enforcement officers when just cause is shown.
6. Grant warrants, writs, injunctions and orders no inconsistent with this Constitution.
7. Swear in Tribal Council members and the Tribal Ogema by administering the oath of office;
8. Establish, by general rules, the practice and procedures for all courts of the Little River Band.

Section 9 - Judicial Independence. The Tribal Judiciary shall be independent from the legislative and executive functions of the tribal government and no person exercising powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government; provided that the Tribal Council shall be empowered to function as the Tribal Court of the Little River Band until the judges prescribed by this Article have been appointed; provided further that the first Tribal Council and Tribal Ogema elected under this Constitution shall make appointments to its courts within ninety (90) days after its members are elected.

ARTICLE VII - GENERAL MEMBERSHIP POWERS

Section 1. General Membership Meetings.

(a) Meetings of the General Membership of the Little River Band shall be held twice a year; once in the spring, once in the fall, at a site suitable for such a meeting.

1. The chairperson for these meetings shall be the Tribal Ogema, who will officiate at these meetings.
2. At these meetings the membership will be informed as to the affairs and "state of the Tribe".
3. Subject to the express limitations contained in this Constitution, motions and ordinances adopted by the General Membership shall have the status of law and be binding on the Tribal Council, Tribal Ogema and Judiciary; provided at least thirty (30%) percent of the registered voters of the Tribe are present at such Membership Meeting, as verified by the Election Board.

4. Notice of a General Membership Meeting shall be given thirty (30) days prior to the meeting by mail to the last known address of each adult member of the Tribe, and by posting in the Tribal Office or Governmental Center.

Section 2 - *Initiative*. Members of the Tribe shall have the power to initiate ordinances or repeal or amend existing ordinances in the following manner:

- a. Initiative petitions shall explain the ordinance to be acted upon in language understood by the signatories.
- b. Petitions signed by twenty-five percent (25%) of the registered voters and verified by the Election Board shall be presented to the Tribal Council for action.
- c. Upon receipt of a verified petition, the Tribal Council may, within thirty (30) days, adopt the initiative measure by a majority vote without alteration. If the Tribal Council fails to adopt the measure, the Election Board shall call a special election for the purpose of allowing the General Membership to vote on the initiative measure.
- d. Initiative elections will be held not less than forty-five (45) days after verification and not more than ninety (90) days in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board.
- e. The decision of a majority of the voters in such an initiative election vote shall be binding on the Tribal Council, provided that thirty percent (30%) of the registered voters cast ballots. If less than thirty percent (30%) of the registered voters of the Tribe cast ballots in such election, the initiative shall be deemed defeated.
- f. The right of initiative does not extend beyond the subject of Tribal ordinances and may not be utilized to abrogate any rights of the Tribal judiciary or abrogate any rights guaranteed to any person under Article III, Section 1 of this Constitution.

Section 3 - *Limitations on Membership Powers*. The General Membership shall not have the power to take any of the following action under this Article:

- (a) Propose, adopt or amend the Tribal Budget;
- (b) Appropriate or expend Tribal revenues or funds;
- (c) Reverse, overturn or otherwise influence any judicial action of the Tribal Court;
- (d) Take any action which is otherwise in violation of this Constitution or a usurpation of individual rights as defined herein.

Section 4 - *Referendum*.

- (a) The Tribal Council shall, upon an affirmative vote of seven (7) Council Members, schedule a referendum election on any proposed or previously enacted ordinance by the membership.
- (b) The referendum election shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the voters in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board. The date of the referendum election shall be set by the Tribal Council.
- (c) The vote of a majority of those actually voting shall be binding upon the Tribal Council, provided at least thirty percent (30%) of the registered voters of the Tribe cast ballots in the referendum election.

Section 5 - *Time of Effect or Repeal*.

- (a) Any action taken under this Article VII shall take effect ten (10) days after certification of election or vote by the Election Board.
- (b) Actions taken by the General Membership under this Article VII may only be repealed

by subsequent action of the General Membership and may not be repealed by action of the Tribal Council.

ARTICLE VIII - POWERS OF THE TRIBE NOT DIMINISHED

Section 1 - Any rights and powers heretofore vested in the Tribe but not expressly referred to in this Constitution shall not be diminished by this Constitution.

Section 2 - This Constitution, Tribal ordinances, regulations and judicial decisions shall govern all people subject to the Tribe's jurisdiction.

ARTICLE IX – ELECTION

Section 1 - *First Election*. The first election under this Constitution of the nine (9) members of the Tribal Council and the Tribal Ogema shall be conducted in accordance with Article IV, Section 2, Article V, Section 6 and this Article and shall be conducted no later than one hundred eighty (180) days after this Constitution is adopted. The date for the election shall be set by the Election Board appointed under subsection (e) of this Section. This election shall be conducted to implement a system of staggered terms of service by Tribal Council members and the Tribal Ogema as follows:

(a) Six positions on the Tribal Council will be elected by members residing in the nine (9) county district consisting of the Michigan Counties of Kent, Lake, Manistee, Mason, Muskegon, Newaygo, Oceana, Ottawa and Wexford. The terms of office for such Council members will be decided in the following manner:

1. The three (3) candidates receiving the highest number of votes shall each serve an approximate four (4) year term of office.
2. The three (3) candidates receiving the next highest number of votes shall serve an approximate two (2) year term of office.

(b) Two positions on the Tribal Council shall be elected by all of the members of the Tribe regardless of residency. The terms of office for such Council members will be decided in the following manner:

1. The candidate receiving the highest number of votes shall serve an approximate four (4) year term of office.
2. The candidate receiving the next highest number of votes shall serve an approximate two (2) year term of office.

(c) One position on the Tribal Council shall be elected by those members residing outside the nine (9) county district and shall serve an approximate two (2) year term of office.

(d) The candidate for the office of Tribal Ogema who receives the majority of votes cast shall serve an approximate four (4) year term of office. If no one (1) candidate receives a majority of the votes cast, a run-off election shall be held between the two (2) candidates who received the highest number of votes.

(e) The Tribal Council in office when this Constitution is adopted shall appoint an Election Board consisting of five (5) adult members of the Tribe. Such appointments shall be made no later than thirty (30) days after this Constitution is adopted.

(f) The service of the Election Board members appointed to conduct the first election shall expire immediately upon completion of their duties, in order that the first-elected Tribal Ogema and Tribal Council may make appointments to the Election Board.

(g) The Election Board shall issue such rules and regulations, consistent with this Constitution, as it deems necessary to properly conduct the first election. Such rules and regulations shall be issued no later than ninety (90) days after appointments are made to the

Election Board.

(h) The Election Board shall register eligible voters of the Tribe and provide for conducting the first election.

Section 2 - *Election Methods.*

(a) *Regular Elections.* After the first election, members of the Tribal Council and the Tribal Ogema shall be elected in the month of April, the date to be set by the Election Board. The conduct for all tribal elections, including registration requirements, shall be prescribed and provided for by the Election Board.

(b) *Special Elections.* Special elections shall be called by the Election Board, when appropriate or when required under this Constitution, to remove, recall, and fill vacancies of elected officials, and to submit initiatives and referenda to the Tribal membership.

Section 3 - *Voting.*

(a) Any duly enrolled member of the Little River Band of Ottawa, who is at least eighteen (18) years old, and is registered to vote on the date of any given tribal election shall be eligible to vote in that tribal election.

(b) Voting in tribal elections shall be by secret ballot cast at polls established by the Election Board; Provided however, that the membership may make advisory recommendations at General Membership meetings by voice vote or show of hands concerning matters to be decided by the Tribal Council.

(c) Absentee voting shall be permitted in accordance with such rules and procedures as shall be established by the Election Board.

(d) Each registered voter shall be entitled to cast one (1) vote for each vacancy on the Tribal Council in the district(s) in which such voter resides. No more than one (1) vote per candidate may be cast. The candidate(s) receiving the highest number of votes shall be elected to fill each vacancy according to the rank order of votes received. Each registered voter shall be entitled to cast one (1) vote for a candidate for the office of Tribal Ogema.

(e) In all other elections, a majority of those voting in the election shall constitute action by the Tribe and such vote shall be conclusive on the Tribe.

Section 4 - *Election Board.*

(a) The Election Board shall consist of five members to be elected by the registered voters.

1. *First Election of Members.* The first election shall be conducted by the Election Board currently seated and their terms of office shall be concluded when the newly elected Election Board members are sworn into office.

2. *First Election Date.* The first such election shall be conducted during the next general election of the Tribe.

3. *Staggered Terms.* Election Board candidates elected to these positions shall serve as follows:

A. The three (3) candidates receiving the highest number of votes shall serve a four-year term of office.

B. The two (2) candidates receiving the next highest number of votes shall serve a two-year term of office, and the term shall thereafter be as set forth in subsection (b).

(b) The term of office for an Election Board member shall be four (4) years.

(c) Allegations of impropriety by the Election Board shall be settled by the Tribal Judiciary.

(d) Tribal members who are holding elected office, or running for office, shall not be eligible to serve as an Election Board member.

- (e) The Election Board shall be authorized to issue such rules and procedures as may be necessary to carry out tribal elections and to provide for ongoing voter registration.
- (f) Candidates for tribal office may choose a representative to be present when the election ballots are counted by the Election Board.
- (g) A Tribal member shall have five (5) business days from the date of the election to file an election challenge.
- (h) A vacancy in any Election Board position resulting from death, resignation, removal, or recall shall be filled in the manner as set forth in Article X. Section 4.

ARTICLE X - RESIGNATION, RECALL, OR REMOVAL OF ELECTED OFFICIALS

Section 1 - Resignation. The Tribal Ogema or any member of the Tribal Council may resign from his/her elected position by submitting written notice of resignation to the Tribal Council. Such resignation is effective upon receipt by the Tribal Council.

Section 2 – Recall. The registered voters of the Tribe shall have the right to recall the Tribal Ogema, any member of the Tribal Council, or a Tribal Judge or Appellate Judge by filing a recall petition with the Election Board. The petition must be signed by at least twenty-five percent (25%) of the registered voters of the Tribe. The Election Board shall verify and approved/deny the petition within thirty (30) days of receipt. At least fifty percent (50%) of the verified signatures on the petition must be registered voters who are eligible to vote in the election of the Tribal Council member now subject to recall.

The Election Board shall conduct a recall election within ninety (90) days of the Election Board's verification and approval of the petition and its signatures. If the term of office for the Tribal Ogema or Tribal Council member being recalled will end within six (6) months of the date the Election Board verifies and approves the recall petition the issue will be held until the next regularly scheduled session.

Section 3 - Removal. The Tribal Ogema or any member of the Tribal Council may be subject to removal by a resolution in favor of removal supported by seven (7) of the nine (9) members of the Tribal Council for any of the following reasons:

- (a) Gross misconduct or malfeasance in office.
- (b) Conviction, while in office, of a felony under Federal, Tribal, or State law, or conviction of any other crime involving dishonesty or moral turpitude.
- (c) Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he/she is incapable of exercising judgment about or attending to the business of his/her office.

At least ten (10) days before the meeting of the Tribal Council at which the vote for removal will be taken, the Tribal Ogema or Tribal Council member, shall be provided with a written notice of Tribal Council's intent to vote to remove, which notice shall set forth, with specificity, the alleged grounds for removal. Before any vote for removal is taken, the Tribal Ogema or Tribal Council member, shall be provided with a reasonable opportunity to answer the charges at the public meeting of the Tribal Council, held for that purpose. The decision of the Tribal Council shall be final.

Section 4 - Vacancies. A vacancy in the office of an elected official resulting from death, resignation, forfeiture, removal, or recall shall be filled as follows:

- (a) If less than eighteen (18) months remain in the term of office of an elected official, an individual shall be appointed to fill such vacant position at the next regular Tribal Council meeting, provided such appointment is approved by a majority vote of the Tribal Council. The Speaker of the Tribal Council shall nominate an individual to fill the vacancy in the

Office of the Tribal Ogema. The Tribal Ogema shall nominate an individual to fill any other vacancy of an elected official.

(b) If more than eighteen months remain in the term of office of an elected official, a special election shall be held within three (3) months after the vacancy occurs. When calling a special election to fill the vacancy of a Tribal Council member, the qualifications for candidates and registered voters entitled to participate shall be consistent with those applicable to the District in which such vacant seat exists and in regards to any other office the individual must meet the qualifications required in the vacant position.

(c) Any special election required to be held under this Section shall be conducted in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board.

(d) The elected official taking office under the provisions of this Section shall only serve until the term of office for the vacant office he/she is filling expires.

A vacancy occurring in the position of Speaker or Recorder of the Tribal Council shall be filled by majority voter of the Tribal Council.

ARTICLE XI - SOVEREIGN IMMUNITY

Section 1 - The Tribal Council shall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution or in furtherance of tribal business enterprises. Except as authorized by tribal ordinance or resolution, the provisions of Article III of this Constitution shall not be construed to waive or limit the right of the Little River Band to be immune from suit for damages.

Section 2 - Suits against the Little River Band in Tribal Courts Authorized.

(a) The Little River Band, its Tribal Council members, Tribal Ogema, and other Tribal officials, acting in their official capacities, shall be subject to suit for declaratory or injunctive relief in the Tribal Court system for the purpose of enforcing rights and duties established by this Constitution and by the ordinances and resolutions of the Tribe.

(b) Notwithstanding the authorization provided in subsection (a) of this Section, persons shall not be entitled to an award of damages, as a form of relief, against the Tribe, its Tribal Council members, the Tribal Ogema, or other Tribal officials acting in their official capacities; provided that the Tribal Council may by ordinance waive the right of the Tribe or Tribal officials to be immune from damages in such suits only in specified instances when such waiver would promote the best interests of the Band or the interests of justice.

(c) The Tribe, however, by this Article does not waive or limit any rights which it may have to be immune from suit in the courts of the United States or of any state.

ARTICLE XII - CONFLICT OF INTEREST

In carrying out the duties of tribal office, no tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a personal financial interest, other than interests held in common by all tribal members, against the interests of the Tribe.

ARTICLE XIII – SEVERABILITY

If for any reason any provision of this Constitution shall be held to be invalid or unconstitutional by the Tribal Court or any federal court of competent jurisdiction, the validity and effect of all other provisions shall not be affected thereby.

ARTICLE XIV. AMENDMENTS

Section 1 - This Constitution may be amended by a majority vote of the qualified voters of the Little River Band voting in an election called for that purpose by the Secretary of the Interior or his authorized representative; provided at least thirty percent (30%) of those entitled to vote participate in such election.

Section 2 - It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Tribal Council or upon receipt of a petition, which has been verified by the Tribe's Election Board, signed by at least thirty percent (30%) of the eligible voters of the Little River Band.

ARTICLE XV – ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Little River Band voting at a special election called for such purpose by the Secretary of the Interior or his authorized representative, in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of his approval.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Deputy Commissioner of Indian Affairs on January 20, 1998, the attached Constitution of the Little River Band of Ottawa was submitted to the qualified voters of the Little River Band and on May 27, 1998, was duly adopted/~~rejected~~ by a vote of 553 for and 32 against and 3 cast ballots found spoiled or mutilated in an election in which at least 30 percent (30%) of the 833 members entitled to vote, cast their ballots in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

/s/ Anne E. Bolton
Chairman, Election Board

/s/ Diane S. Lonn
Member, Election Board

/s/ Robert E. Hardenburgh
Member, Election Board

/s/ Jonnie J. Sam II
Member, Election Board

Date: May 27, 1998

CERTIFICATE OF RESULTS OF ELECTION (2004 AMENDMENTS)

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "A" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 379 for, and 92 against, and 5 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "B" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 375 for, and 94 against, and 7 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "C" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 378 for, and 90 against, and 8 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Gerald F. Parrish
Chairman, Election Board

John Ross
David Lilliberg
Kathleen Bowen
Susan A. Schultz

Date: April 26, 2004

CERTIFICATE OF APPROVAL

I, Hilda A. Manuel, Deputy Commissioner of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by Secretarial Order No. 3150 as extended by Secretarial Order No. 3177, as amended, do hereby approve the Constitution of the Little River Band of Ottawa. This Constitution is effective as of this date; PROVIDED, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

/s/ Hilda A. Manuel
Deputy Commissioner of Indian Affairs
Washington, D.C.

Date: Jul 10 1998

CERTIFICATE OF APPROVAL (2004 AMENDMENTS)

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "A" now designated as Amendment Number I to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "B" now designated as Amendment Number II to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "C" now designated as Amendment Number III to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

Terrance L. Virden
Regional Director

Date: May 13, 2004