HOUSING COMMISSION ORDINANCE
Ordinance # 04-700-01

Article I. Purpose; Findings

1.01. *Purpose.* The Little River Band of Ottawa Indians has determined that it is in the best interests of its members to regulate the development of Tribal housing through a Tribal Commission organized and operated for the purposes of developing regulations to provide housing services for Tribal members; to coordinate with Federal, State, local, and private entities to further housing opportunities for Tribal members; and to provide housing programs and services for the members of the Little River Band of Ottawa Indians.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds:

a. That the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.]" Article IV, Section 7(a).

b. That providing affordable housing in safe and healthy environments is an essential element of providing for the health, peace, and general welfare of the Tribal members;

c. That there exists in and about the Reservation of the Little River Band of Ottawa Indians and the Tribe's Indian Area:

1. unaffordable, unsafe, and overcrowded dwelling accommodations;
2. a shortage of decent, safe, and sanitary dwelling accommodations available at rents or prices that Tribal members can afford;
3. insufficient dwelling accommodations to meet the needs of Tribal members desirous of residing within the Tribal Indian Area;

d. That these conditions:

1. compel Tribal members to leave the area and deter Tribal members from returning to the Manistee Reservation or Tribal Indian Area, thus contributing to the ongoing disconnectedness of the Tribal community; and
2. impede Tribal member's search for work in and around the Manistee Reservation;

e. That the shortage of decent, safe, and affordable dwellings cannot be relieved fully through the operation of private enterprises;

f. That the provision of decent, safe, and affordable dwelling accommodations are public uses and purposes, for which money may be spent and private property acquired, and are governmental functions of Tribal concern; and

g. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this Ordinance to aid the production of better housing and more desirable neighborhood and community development at affordable costs will make possible a more stable and larger volume of residential construction and housing supply.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is adopted by Resolution # 04-1016-408, which supersedes Ordinance # 96-700-01, and Tribal Council Resolutions #00-0913-01, #98-0618-01; #96-1208-01.

a. Amendments adopted by Resolution #08-0528-155 requiring Housing Department Director to prepare annual Indian Housing Plan.

b. Resolution # 11-0907-326, adopting emergency amendments to reduce the number of commissioners to three.

c. Resolution #12-0229-049, permanently adopting emergency amendments.

d. Resolution #14-0305-051, adopting on an emergency basis amendments to require that rental rates be authorized by Tribal Council Resolution.

e. Resolution #14-0514-148, permanently adopting emergency amendments and increasing the number of Commissioners from three (3) to five (5).

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article III. Definitions

3.01. *General.* For purposes of this Ordinance, certain terms are defined in this Article. The word "shall" is always mandatory and not merely advisory.

3.02. *Affordable Housing Activities* means activities to develop or support affordable housing for rental, or to provide housing services with respect to affordable home rental or ownership for Tribal members through activities that include the following:

a. The acquisition, new construction, reconstruction, or rehabilitation of affordable housing, which may include site improvement, development of utilities and utility services, conversion, demolition, design, financing, administration, and planning and other related services;

b. The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance; establishment and support of resident organizations and resident management agencies; energy auditing; and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities authorized under federal and Tribal housing laws;

c. The provision of housing management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and the management of affordable housing

projects;

d. The coordination, planning and provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

3.03. *Commission* means the Housing Commission as created in this Ordinance, with the powers and authority vested therein pursuant to this Ordinance.

3.04. *Commissioner* means a member of the Housing Commission.

3.05. *Department* means the Housing Department of the Tribe charged with the enforcement of the Little River Band of Ottawa Indians housing policies and housing administration.

3.06. *Federal government* includes the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

3.07. *Housing project* means any work or undertaking to provide or assist in providing decent, safe, and affordable dwellings, apartments, or other living accommodations. Such work or undertaking may include buildings, equipment, facilities, and other personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

3.08. *Indian Area* means the area within which the Little River Band operates affordable housing programs, as defined by the NAHASDA, section 4(1) and the 24 CFR Part 1000, and as defined under Tribal law.

3.09. *Persons of low income* means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use, and as may be further defined by the Housing Commission.

Article IV. Housing Commission

4.01. *Creation of Commission; General Authority.* There is hereby created a Housing Commission, created for the purposes described in Article I of this Ordinance. The Commission is charged with the oversight and regulation of the Tribe's housing within the Tribe's jurisdiction and shall exercise the powers and authorities described in this Ordinance or as may be designated by separate Ordinance.

4.02. *Membership.*

a. The Commission shall consist of at least three (3) but no more than five (5) Commissioners appointed according to the Constitution and the Commissions Ordinance. At least one (1) member of the Commission shall be an elder of the Tribe.

b. Any person 21 years of age or older may be nominated for appointment to the Commission. A Commissioner may be a member or non-member of the Tribe, provided that no more than one Commissioner may be a non-Tribal member.

c. No person shall be barred from appointment to the Commission because they are a

tenant in a housing project, and such Commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants, even though such matters affect them as well. Provided that, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting, except in their capacity as a tenant, or to be counted or treated as a member of the Commission, concerning any matter involving their individual rights, obligations or status as a tenant.

d. A person shall not be eligible to be appointed as a Commissioner if they are employed in the Department.

4.03. *Terms of Office.* The term of office for members of the Commission shall be limited as follows.

a. *Commissioners.* The term of office of a Commissioner shall be four years unless the Tribal Council authorizes a longer term to stagger terms of office to assure the stability of the Commission.

b. *Officer.* The term of office for an officer shall be one year. A Commissioner may be elected to successive years in the same office.

4.04. *Removal.* In addition to the reasons for removal from office as set forth in the Commissions Ordinance, a member may be removed for the following additional reasons.

a. Conviction of a felony in Tribal, State, or Federal court during a term of office, unless such conviction stems from performance of a legal duty to the Tribe;

b. Fraud, conspiracy to commit fraud or material misrepresentation, or malfeasance in the performance of duties and responsibilities under this Ordinance.

4.05. *Restrictions on Actions.*

a. During a Commissioner's tenure and for one year thereafter, no Commissioner shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, they disclose their potential interest in writing to the Commission.

b. Such disclosure shall be entered upon the minutes of the Commission, and the Commissioner shall not participate in any action by the Commission relating to the property or contract in which they have any such interest.

c. If any Commissioner involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment as a Commissioner, the Commissioner, in any such event, shall immediately disclose their interest, in writing, to the Commission; and such disclosure shall be entered upon the minutes of the Commission relating to the property or contract in which they have any such interest.

d. Any violation of the foregoing provisions of this section shall constitute misconduct in office and may be grounds for removal from the Commission.

e. This section shall not be applicable to the acquisition of any interest in obligations of the Commission issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project, or to act as trustee under any trust indenture, or to utility services the rates for which are

fixed or controlled by a governmental agency, or to membership on the Commission.

Article V. Meetings of the Commission

5.01. *Public Informational Meeting.* The Commission shall have a public informational meeting, to be held at a large, centrally located facility, at least one time per year at such a date, time, and location as may be designated by the Commission, subject to the following requirements:

a. The agenda of the meeting shall be informational in nature.

b. The Commission shall be required to convene a quorum at the meeting.

c. Substantial time shall be set-aside at each such meeting to permit the Tribal membership the opportunity to provide input on any aspect or issue which is relevant to the purpose and authority of the Commission.

d. Notice of such meeting shall be published in the Tribal newspaper no later than two weeks before the meeting, the notice to set forth the place, date, time, and duration of the meeting and the agenda for the meeting.

e. Complete minutes of the meeting shall be taken and retained, and shall become a part of the regulatory history of the Commission.

5.02. *Regular Meetings.* Regular meetings of the Commission shall be held once each month for the purpose of conducting the business of the Commission. Regular meetings shall be subject to the following requirements:

a. Notice of such meetings, including the date, time and location, shall be provided in the annual publication of meeting dates.

b. Changes to the date, time, or location of any meeting shall be presented to each Commissioner at least 14 days before the date of the meeting change.

c. Meeting notice shall be deemed to be provided upon adoption of the annual publication of meeting dates. Changes to any meeting date, time, or location shall be deemed noticed by personal notice to the Commissioners or may be sent by telefax or e-mail.

d. Each Commissioner shall have a vote on all issues to be decided by the Commission.

e. The Commission shall take no official action unless a quorum is present. A quorum of the Commission shall consist of one officer and at least one (1) other Commissioners.

f. Complete minutes of such meetings shall be taken and the open session minutes shall be attached to a Commission monthly report to the Tribal Council. A Tribal member may obtain access to Commission minutes by making a request to the Tribal Council Recorder.

5.03. *Special Meetings.* Special meetings of the Commission shall be held as needed upon the directive of the Chairperson or any two Commissioners upon receipt of 24 hours notice in writing delivered to all members of the Commission.

a. Notice shall be deemed to be provided upon being sent by telefax or e-mail.

b. All other provisions applicable to regular meetings shall apply to special meetings of the Commission.

5.04. *Conduct of Meetings.* Regular and special meetings shall be conducted pursuant to the following additional rules:

a. It shall be the standard that all meetings of the Commission shall be open to all members of the Little River Band of Ottawa Indians; however, the Chairperson or a majority of the Commissioners present may direct all or a portion of a regular or special meeting to be closed to everyone except designated participants, when such closed meeting is necessary to deal with personnel issues or to discuss any matters deemed to require a closure.

b. Minutes of all regular and special meetings of the Commission shall be kept on permanent file in the offices of the Tribal Council, and shall be available for inspection by any member of the Little River Band of Ottawa Indians upon reasonable advance notice; provided, however, that as to any closed meeting or closed portion of a meeting, the minutes shall merely reflect that a closure took place.

c. Minutes of all closed meetings or closed portions of meetings of the Commission shall be transcribed and shall be kept on permanent file in the confidential files of the Commission. Such minutes may be released only upon a majority vote of the Commission explicitly authorizing such release.

d. Roberts Rules of Order shall govern the conduct of Commission meetings.

Article VI. Powers; Regulations

6.01. *Primary Responsibilities.* The primary responsibilities of the Commission shall be:

a. To implement the provisions of this Ordinance and all Ordinances governing Tribal housing activities, through the development and adoption of regulations governing Tribal housing on Tribal trust or fee lands. Regulations shall be approved by the Tribal Council or in accordance with any Ordinance promulgated regarding adoption of regulations.

b. To promulgate regulations necessary to implement federally funded projects regarding housing, including development, construction, maintenance and/or repairs, that shall be approved by the Tribal Council or in accordance with any Ordinance promulgated regarding adoption of regulations.

c. To promulgate regulations necessary to implement market-based rental housing, low-income home ownership, federal tax credit home ownership, private mortgage financing home ownership for housing activities on Tribal trust and fee lands, that shall be approved by the Tribal Council or in accordance with any Ordinance promulgated regarding adoption of regulations.

d. To review, prior to Tribal Council submission, the Tribe's annual Indian Housing Plan under the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330, 110 Stat. 4019) which shall be prepared by the Director of the Housing Department.

6.02. *Additional Powers.* The Commission shall have the following additional powers:

a. To develop and complete a bi-annual survey and assessment of housing needs of the Tribal membership, and to determine and implement appropriate housing programs to

meet the identified needs, subject to the approval of the Tribal Council.

b. To issue orders and directives not inconsistent with regulations adopted by the Commission, this Ordinance, or Ordinances regulating the housing activities of the Tribe.

c. To adopt, when deemed necessary by the Commission, such emergency regulations not to exceed 90 days in duration.

d. To develop and foster cooperative and constructive working relationships with governments, organizations, and agencies which assistance will benefit the Tribal membership.

e. To identify income requirements and to set occupancy rates.

f. To establish by resolution, on an annual basis, the rents for any rental or leased unit, and the basis therefore. In order to be effective, any resolution adopted under this Section shall be authorized by Tribal Council Resolution.

g. To set forth the criteria for the selection of tenants, including the establishment of priorities for assignment of housing, occupancy, rental, care and management of housing units.

h. To promulgate such further regulations as the Commission may deem necessary and desirable to effectuate the powers granted by this Ordinance, subject to the approval of the Tribal Council.

i. To plan for the development of land set aside for the use of low-income and other housing projects. The proposed development or use of any such lands shall be consistent with the Tribe's land use and/or acquisition plan(s) and subject to approval of the Tribal Council.

j. To design and carry out studies and analyses of housing needs, as may be necessary, from time to time, to ensure the accuracy of housing information for planning purposes. Such studies shall be submitted to the Tribal Council and Ogema upon completion and receipt.

k. To ensure the development of private housing finance mechanisms for members seeking to build on trust and fee lands or purchase housing on fee lands.

l. To prepare and present to the Tribal Council a proposed budget requesting an appropriation of funds to permit the Commission to carry out the responsibilities of this Ordinance and all Ordinances related to Tribal housing activities.

6.03. *Hearing Body.* The Commission shall act as the hearing body for the activities listed below in accordance with hearing procedures adopted by the Commission.

a. The Commission shall hear:

1. all appeals of denials, suspensions, revocations, or other Departmental actions involving Tribal housing tenants;

2. all cases where a lease or rental agreement allegedly breached by a tenant has resulted in notice of termination or eviction issued by the Department;

3. all cases in which a tenant or former tenant disputes the withholding by the Department of all or any part of the person's security deposit;

4. all cases in which the Department requests a variance from Tribal building,

housing, or zoning codes. The standard in any such case shall be whether the requested variance is necessary and reasonable. The Tribal Building Official shall be a necessary party to any such action.

b. The Commission shall issue all decisions in an order that clearly identifies the parties, issues, facts, rule or law and decision.

c. The Commission shall adopt all orders by majority vote and an original shall be presented to the affected party.

d. Decisions of the Commission, acting as the hearing body for all activities listed herein, may be appealed to the Tribal Court on an appeal review of an administrative decision and not as an original hearing.

e. The Department may appeal an adverse decision of the Commission only with the approval of the Ogema.

f. The Commission shall maintain all records and filings submitted during this administrative hearing process in a safe and confidential location.

Article VII. Miscellaneous Responsibilities

7.01. *Report to Tribal Council.* The Housing Commission shall submit a monthly report to the Tribal Council. Such report shall be based on the Department activity report due on a monthly basis to the Housing Commission. The report must show:

a. a summary of the housing activities of the previous month;
b. the rents received;
c. the condition of the properties;
d. the number of units and vacancies;
e. any significant problems and accomplishments;
f. plans for the future; and
g. such other information as Tribal Council shall deem pertinent.

7.02. *Project Development in Accordance with Applicable Laws.* Each project developed or operated under a contract providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and all applicable Tribal, state, and federal law and regulations.

7.03. *Restrictions on Projects.* The Tribe shall not construct or operate any project for profit constructed or operated utilizing federal funding.

7.04. *Housing Needs.* The design and development of housing that is compatible with the needs and desires, to the extent possible, of the Tribal membership, is of high quality, is energy efficient, and will ensure a sound, manageable, and long-term housing program.

7.05. *Public Property.* The property designated for use for Tribal housing is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes and special assessments of the Tribe.

7.06. *Exemption from Levy, Sale or Judicial Process.* All property, including funds received for housing activities pursuant to this Ordinance, shall be exempt from levy and sale by virtue of an execution.

a. No execution or other judicial process shall issue against the same, nor shall any judgment against the Housing Commission or the Department constitute a charge or lien upon such property.

b. Provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Tribe on its rents, fees, or revenues; or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this Ordinance or the right of the Department to bring eviction actions.

Article VIII. Tribal Cooperation in Connection With Projects

8.01. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the following restrictions shall apply to future Ordinances or actions of the Tribal Council or Ogema.

a. It shall not levy or impose any real or personal property taxes or special assessments upon any housing project authorized under this Ordinance.

b. To cause to be furnished to the tenants of projects any services and facilities the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

c. Insofar as it may lawfully do so, it shall grant such deviations from any present or future Tribal building or housing codes as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety; and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development of such project, and the surrounding territory.

d. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects.

e. The Tribal Council hereby declares that the powers of the Tribal government through the Department shall be vigorously utilized to enforce eviction of a tenant for nonpayment or other contract violations including action through the appropriate courts.

f. The Tribal Courts shall have jurisdiction to hear appeals of an action for eviction of a tenant after a hearing by the Commission. The Tribal Council hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant for nonpayment or other contract violations.

8.02. *Restriction on Amendment of this Section in Regards to Federal Projects.* The provisions of this section shall remain in effect with respect to any project; and said provisions shall not be abrogated, changed or modified without the consent of the Department of Housing and Urban Development, so long as:

a. the federally assisted project is owned by a public body or governmental agency and is used for low income housing purposes;

b. any contract between the Tribe and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or

c. any obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing including the Federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

CERTIFICATION

I, Sandy Mezeske, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Housing Commission Ordinance adopted by the Tribal Council on May 14, 2014.

Sandy Mezeske

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