

BOARDS ORDINANCE
Ordinance # 07-150-11

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this Ordinance is to create Boards that act primarily as administrative hearing bodies that regulate within a subject or activity to assist the Tribal Council in its legislative responsibilities.

1.02. *Findings.* the Tribal Council finds that,

- a. The Constitution allows for the creation of subordinate organizations; and
- b. There is a need for the creation of regulatory Boards with specific delegations of authority to hold hearings and develop expertise to regulate complex and technical activities.

Article II. Adoption, Amendment; Repeal

2.01. *Adoption.* This Ordinance is adopted by the Tribal Council by Resolution # _____

2.02. *Amendment.* This Ordinance may be amended from time to time as set forth in the Constitution, the Administrative Procedures Act, or in procedures adopted by the Tribal Council.

2.03. *Repeal.* This Ordinance may be repealed by the Tribal Council in accordance with the Constitution, the Administrative Procedures Act, or in conformance with any other procedures adopted by Tribal Council.

2.04. *Short Title.* This Ordinance may be cited as the Boards Ordinance.

2.05. *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.

2.06. *Superseding Existing Actions Creating Boards.* If any provision of this Ordinance, or its application, conflicts with any provision of an action creating a board, this Ordinance shall govern,

Article III. Definitions.

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Section. The word “shall” is always mandatory and not merely advisory.

3.02. *By-Laws* means an organizational document created and approved by a Board, and approved through adoption of a resolution by the Tribal Council.

3.03. *Board* means an entity of the Tribe created under Article IV, section 7(f), delegated authority and responsibility to hold hearings and regulate in a specific subject matter, including the power to develop rules and regulations in accordance with processes and procedures set forth by the Tribal Council.

3.04. *Creating Ordinance* means the ordinance which creates a Board and defines the delegated authorities and responsibilities.

3.05. *Regulated Area* means the activity under the jurisdiction of the Tribe over which a Board has been delegated authority.

Article IV. General

4.01. *Boards.* Boards shall be created and governed by the direction and requirements set forth in this Ordinance for which the primary delegated purpose is to be an administrative hearing body with authority to develop regulations over a specific set of activities.

4.02. *Exceptions.* Boards may be created with exceptions to the requirements in this Ordinance, provided that, any exceptions shall be specifically noted in the creation documents.

4.03. *Implementation.* The authority and actions of all Boards shall be implemented by resolution approving and adopting by-laws for the Board.

4.04. *Authority.* A board is created by the Tribal Council under the authority granted in Article IV, Section 7(f) of the Constitution. A board is granted limited legislative authority and must act at all times in accordance with the Constitution, laws and regulations of the Tribe.

Article V. Boards in General

5.01. *Boards.* Boards are created to hold hearings and to regulate within a subject matter or activity.

a. *Membership.* A Board has at least three members who shall be appointed by the Ogema and approved by the Tribal Council.

b. *Authority.* A Board shall be granted sufficient legislative authority to allow the Board to create regulations to govern in the subject matter jurisdiction.

5.02. *Boards; Creation.* Boards are created by adoption of an Ordinance which sets forth the legislative requirements, direction, limitations, restrictions or other directions regarding a subject matter. Upon adoption of an Ordinance, the Board members shall be identified and directed to develop and present By-Laws.

Article VI. By-Laws

6.01. *Creation Documents.* All Boards shall have two creation documents – an Ordinance and By-Laws. No board shall authorize proxy voting in By-Laws.

6.02. *Board By-Laws.* All Boards shall have By-Laws that contain at least the following minimum elements, in the order set out in this section. There may be other elements within the By-Laws, provided that, all By-Laws are subject to the limitations of the creating Ordinance and any conflict with the creating Ordinance or this Ordinance shall be resolved in favor of the this Ordinance first, and the creating Ordinance second.

a. *Article I - Title, Authority, Purpose.*

1. *Title.* The first Article in the By-Laws shall contain a section which identifies the official title of the Board, as well as any short title the Board may be known by. In addition, the official address of the Board shall be included – both mail and office if the address are different.

2. *Authority.* The first Article in the By-Laws shall contain a section which identifies the creating Ordinance, and specific sections therein delegating authority, as well as the resolution adopting the By-Laws and reference to any resolutions adopting amendments thereto.

3. *Purpose.* Finally, the first Article in the By-Laws shall contain a section which sets forth the specific purpose for the creation of the Board.

b. *Article II - Members.* This Article shall set forth the number of members of the Board, the qualifications to be a Board member, the length of the term of office, whether there are officers, and other pertinent information related to the qualifications to be a Board member. Boards shall identify a Chairperson, or other similarly named executive officer, and a Secretary, or other similarly named recorder.

c. *Article III - Duties and Responsibilities.* This Article shall set forth the specific responsibilities of the Board. The duties and responsibilities may be as set forth in the creating Ordinance, or may be listed in any other manner which may clarify these activities.

d. *Article IV - Meetings.* This Article shall set forth the number of regular meetings per month, whether, and how, special meetings may be called, the required quorum for the Board, and how

minutes and records will be kept. Provided that, all quorums must require at least one officer to be present, all special meetings must require the Chairperson to call a special meeting, and notice must be given to every Board member by an officer. The Board shall establish the regular meeting schedule no later than the last meeting prior to the end of the calendar year for the next calendar year. Such schedule shall be posted upon adoption in the Little River Health Center, Little River Tribal Office, Little River Band Community Center, and the Little River Band Downtown Office Building and one original shall be included in the January Report to the Tribal Council.

1. Meeting Locations. All Boards shall designate a location for meetings in its By-Laws.
2. Purpose of Meetings. Meetings shall be convened solely to carry out the purpose of the board as set forth in the creating ordinance and by-laws.

e. *Article V - Employees; Liaison.*

1. *Employees.* This Section shall identify whether the Board has the power to engage employees and enter into contracts. A Board shall have authority to employ individuals if authorized to do so under its creating ordinance. All such employment shall be in accordance with Tribal employment policies. Employees of entities are employees of the Tribe, provided that, the supervisor of employees of entities shall in all cases be the Chairperson of the Board. In the alternative, this Section shall state that the Board does not have the power to employ individuals.

2. *Liaison.* This Section shall identify the responsibilities of the liaisons between the Board and the Tribal Council, and/or the regulated area.

- A. *Board.* The By-Laws shall state that the liaison from the Board is responsible for interacting with the Tribal Council liaison to bring issues to the Tribal Council, and to bring issues from the Tribal Council to the Board.

- B. *Tribal Council.* The Tribal Council liaison shall be responsible for identifying a contact number and office location at which the Board may leave documents, messages, requests, and other like information. The Tribal Council liaison may attend meetings, but is not required to do so. The Tribal Council liaison may attend closed sessions of a board. Provided that, a liaison shall not have the authority to enter and/or participate in any deliberations for decision-making resulting from any hearing.

f. *Last Article - Amendment; Repeal.* This Article shall be the last in the By-Laws and shall contain the following sections.

Section #.01. Amendment. These By-Laws shall be reviewed on an annual basis by the [Board name] for amendments. All amendments must be presented at least one meeting prior to action and must be adopted by a two-thirds vote of the members present. Amendments are final when presented and approved by the Tribal Council through a resolution created and submitted by the Board.

Section #.02. Repeal. These By-Laws may be repealed by the presentation of a request to the Tribal Council by the Board in the form of a resolution containing the reasons a repeal of these By-Laws are necessary. The Board must approve the repealing resolution by a two-thirds vote of the members present. Further, the Tribal Council may unilaterally repeal these By-Laws by amendment to the creating Ordinance or by adoption of a resolution calling for the repeal of the Board's By-

g. *Certification.* At the end of all By-Laws, the following certification shall be added.

I, [name], as Chairperson of the [name of Board] do hereby certify that the [name of Board] adopted these By-Laws at a duly called meeting.

Signature and date

I, [name], as Tribal Council Recorder do hereby certify that the Tribal Council, at meeting called on [date], adopted these By-Laws.

Signature and date

Article VII Membership

7.01. *General.* Board members shall be appointed as set out in this Section. Terms of office for Board members shall begin on September 21 and end on September 20 at midnight, regardless of when appointed or sworn into office. A Board member shall be officially appointed when presented by the Tribal Ogema and approved by the Tribal Council. A Board member shall have the authority of office when the oath of office is taken as set forth in Article X.

7.02. *Employees of Regulated Area.* Individuals who are employed, or become employed, in the area regulated by a board shall be ineligible to serve on that board or to be appointed to that board, unless required to do so by the creating Ordinance.

a. *Attendance at Meetings.* Employees appointed to or serving on a board shall be granted time off to attend meetings held during normal business hours. Employees shall not be compensated for time spent attending meetings outside normal business hours. For purposes of this subsection, employees serving on a board do so in furtherance of their employment duties.

7.02a Membership Limited. Board membership may be limited by the creating Ordinance.

7.03. *Hold-over Policy.* There is recognized a policy of the Tribe that a Board member shall serve in his or her position upon appointment and until the end of the term. Provided that, a Board member shall continue to serve in his or her capacity as a Board member after the completion of a term, and for no longer than 90 days, to allow for a new Board member to be appointed and sworn in. In which case, Board members shall serve with all the powers of a Board member until such time as a replacement is sworn in, or for 90 days, whichever is shorter. Provided further that, a board member whose term is concluded, and who is subsequently denied re-appointment, shall not continue in a hold-over capacity and the term shall be concluded upon adoption of a motion to deny re-appointment.

7.04. *Term of Office - Vacancies.* Any individual appointed to a Board shall fill the term of the vacant office. Provided that, appointment to a vacancy for which a term of office has less than six months remaining, shall be appointed for the remainder of the vacant term and a full term of office thereafter.

7.05. *Board Membership.* All Board members shall be chosen as set forth in this section, unless the creating Ordinance requires that an employee of one or more Tribal Departments or Divisions be appointed to the Board; then, all other Board members shall be appointed as set forth below.

a. *Number and Term of Office.* Boards shall have at least three Board members, and may have no more than nine Board members, but in all cases shall state a specific number. Board members shall serve four year terms, provided that the Tribal Council may authorize longer terms.

b. *Posting.* Vacancies on a board shall be posted in the tribal newspaper, or other notice to the membership or eligible membership, at least thirty days prior to submission of a recommendation to Tribal Council by the Ogema.

c. *Recommendation to Tribal Council.* The Ogema shall submit to Tribal Council a nominee for

approval. The recommendation shall contain the following information.

1. Name of individual.
2. Name of Board and identification of qualifications for the Board to which the individual is being nominated.
3. Identification of the term of office which shall include the start date as well as the term ending date. If applicable, there shall also be identified that this nomination fills a vacant term, and whether that term is affected by section 7.04, and the affect, if any.
4. Copies of the following documents.
 - A. Application or other resource utilized by the Ogema to review the qualifications and determine that the individual should be nominated.
 - B. Copy of notice of vacancy which shall include the date on which it was posted.

d. *Interview by Tribal Council.* The Tribal Council may request the nominee to attend a Tribal Council meeting, in closed session if required, to participate in an interview. Such request shall be by motion, and the nominee shall be notified by letter of the date and time of the interview. The Tribal Council shall identify the questions to be asked of the nominee and approve them prior to the interview. Such questions shall be asked by the Tribal Council Speaker, or other representative nominated by the Tribal Council.

e. *Acceptance of Recommendation.* If the nominee is approved by the Tribal Council, a motion substantially similar to that set out below shall be made.

Motion, or move, to approve the appointment of [name] to [Board name] for the term of office beginning on [date] and ending on [date] and all authorities of office as a Board member shall commence upon swearing in by the Tribal Court.

(if necessary) Provided that, this term of office is affected by section 7.04 of the Boards Ordinance and this appointment is for – either
– the remainder of a prior term and a full term; or
– the remainder of a vacant term of office.

f. *Non-Acceptance of Recommendation.* The Tribal Council shall forward a notice to the Ogema in the event the recommendation is not accepted by the Tribal Council. Such notice may include the reasons why the recommendation is unacceptable with sufficient specificity so as to allow the Ogema to provide corrected information, or make a new recommendation.

7.06. *Resignation.* A Board member may resign by submitting, in writing, a document which states that the Board member is resigning from the Board by submitting such document to the Chairperson or Secretary of the Board. Letters of resignation shall be forwarded to the Ogema by the Chairperson or Secretary of the Board upon receipt. No resignation shall allow the Board member to resign on a date longer than 30 days after the letter of resignation is submitted. Letters of resignation are effective upon submission and may not be withdrawn once submitted.

7.07. *Removal - By Boards.* A Board member may be removed as set forth in this section.

a. *Cause for Removal.* The following action, and inaction as may be applicable, may be cause for removal.

1. Failure to attend a combination of at least three meetings or hearings during a six month period.
2. Unethical behavior in conjunction with the activities of the Board member –
 - A. which reflect on the qualifications to be a Board member; or
 - B. which reflect negatively on the Board or its duties and responsibilities.

3. After appointment, an action, activity or other change in circumstance which would have made a Board member ineligible to be appointed after he or she is appointed.
4. Neglect of duties and responsibilities as provided in the by-laws or as directed by the Board member.
5. Specific causes for removal as may be set forth in the creating Ordinance.

b. *Board Hearing and Determination.* The Board shall provide notice to the Board member subject to removal at least seven days prior to the meeting at which the removal hearing will be conducted. The Board shall allow hearings to be rescheduled at the request of the Board member subject to removal to allow for witnesses or other evidence to be made available. The Board shall allow the Board member subject to removal representation of his or her choice at his or her expense. Further, the Board shall allow all Board members, as well as the Board member subject to removal, or his or her representative, to question any or all witnesses called to present testimony.

1. *Notice.* The notice presented to the Board member subject to removal must contain the name and address of the board member, date sent, date removal hearing will be scheduled, and identification of the reasons for removal, including any witnesses or copies of any evidence.

2. *Decision.* The Board member shall issue a decision within 14 calendar days of the completion of the hearing in the form of a resolution. Such resolution shall identify in the Whereas sections the date of the hearing, board members present, whether the Board member subject to removal appeared, a statement of facts relied upon, and the reasons for removal. Further, the resolution shall contain in the Resolved section(s) the decision of the Board.

c. *Removal Determination Resolution.* The removal resolution, whether to remove or not, shall be approved by the Board by majority vote and be submitted to the Board member subject to removal and the Tribal Council.

d. *Appeal.* The Board member subject to removal may appeal a decision by the Board to remove him or her to the Tribal Council. Such appeal shall be in writing and delivered within 7 calendar days of the approval of the removal resolution by the Board to the Tribal Council Recorder. The appeal request must state why he or she is appealing and any evidence or testimony which may support the appeal. The Tribal Council shall review the appeal and the removal resolution as set forth in the Removal Rules and Procedures Ordinance, Ordinance # 01-100-07.

7.08 Removal - by Tribal Council. A Board member may be removed by the Tribal Council as set forth in this section.

a. Cause for Removal. The following action, and inaction as may be applicable, may be cause for removal.

1. Failure to attend a combination of at least three meetings or hearings during a six month period.
2. Unethical behavior in conjunction with the activities of the Board member –
 - A. which reflect on the qualifications to be a Board member; or
 - B. which reflect negatively on the Board or its duties and responsibilities.
3. After appointment, an action, activity or other change in circumstance which would have made a Board member ineligible to be appointed after he or she is appointed.
4. Neglect of duties and responsibilities as provided in the by-laws or as directed by the Board member.

b. Tribal Council Hearing and Determination. The Tribal Council, through the Councilor liaison, shall provide notice to the Board member subject to removal at least seven days prior to the meeting at which the removal hearing will be conducted. The Tribal Council may allow hearings to be rescheduled at the request of the Board member subject to removal to allow for witnesses or other evidence to be made available. The Tribal Council may allow the Board member subject to removal representation of his or her choice at his or her expense. Further, the Tribal Council may allow all Council members, as well as the Board member subject to removal, or his or her representative, to question any or all witnesses called to present testimony. The Tribal Council is not required to provide notice to a Board of, nor required to allow participation of a Board in, action taken under this section.

1. Notice. The notice presented to the Board member subject to removal must contain the name and address of the board member, date sent, date removal hearing will be scheduled, and identification of the reasons for removal, including any witnesses or copies of any evidence.

2. Decision. The Tribal Council shall issue a decision within 14 calendar days of the completion of the hearing in the form of a resolution. Such resolution shall identify in the Whereas sections the date of the hearing, board members present, whether the Board member subject to removal appeared, a statement of facts relied upon, and the reasons for removal. Further, the resolution shall contain in the Resolved section(s) the decision of the Tribal Council.

c. Removal Determination Resolution. The removal resolution, whether to remove or not, shall be approved by the Tribal Council by majority vote and be submitted to the Board member subject to removal and the Tribal Council.

d. Appeal. There is not appeal of a decision of the Tribal Council taken under this section.

Article VIII. Records of Entities

8.01. *General.* Boards shall keep minutes and make reports as set forth in this Section. No Board may be authorized to maintain less than the required minutes and records, or provide less than the number of reports set forth herein.

8.02. *Records.* Boards shall maintain records in an orderly fashion, and where applicable, in a confidential manner.

a. All records are the property of the Tribe and shall be surrendered upon conclusion of the Board's activities.

b. Records are also considered public documents, provided that confidential records pertaining to contracts, litigation, personnel, or personal matters shall remain confidential and non-public documents.

c. Boards with confidential documents must maintain an organization that either separates or clearly identifies confidential documents not for public review, and must note within the main body of the records where confidential documents have been sealed or removed.

d. Boards must maintain separate files for each administrative hearing which includes any evidence, notices, documents, and any tape recording of the hearing, if applicable.

8.03. *Minutes.* Boards shall maintain minutes which identify the Board members present, guests, the date, beginning and ending time, and place of the present meeting, and the date time and place of the next regular meeting. Further, minutes shall contain each motion acted upon, and the roll call vote.

Minutes shall also contain the body of any resolution adopted, and the roll call vote regarding that resolution. Boards may determine whether minutes should contain summaries or abstracts of the discussion which took place. All Boards shall record each meeting and maintain such recording for one year.

8.04. *Reports.* Boards shall file a written report with the Tribal Council once per month at a meeting to be designated by the Tribal Council. Such designated meeting shall be included in the resolution adopting the Tribal Council meeting schedule. Unless identified otherwise, the meeting shall be the third Saturday of the month meeting. Reports shall include the following information with the designated titles, and any other information that the Board may determine to be necessary.

a. *Name, Purpose, Officers.* A paragraph which identifies the name of the Board, a summary of the purpose of the Board, and the officers of the Board. The full Board membership may be identified.

b. *Activities During Past Month.* This paragraph shall contain information regarding important or significant activities during the past month. This should be explanatory, rather than a listing of meetings, hearings, etc.

c. *Concerns; Requests.* This paragraph shall identify any concerns that have been identified during the past month, and may include, by way of example and not limitation – amendments to creating documents, processes reviewed or monitored, amount or limitations on authority, etc. In addition, this paragraph shall contain a subsection which identifies any specific requests the Board may have of the Tribal Council. These requests should be clearly stated so as to identify the action needed, and any necessary follow-up from that action.

d. *Attachments.* There shall be listed in this paragraph the attachments to the report.

1. A list of every meeting, whether regular or special, that held during the past month, and whether or not the minutes are attached.

2. A list of every hearing and whether or not a decision has been rendered and whether or not the decision is attached.

3. Originals of –

A. Open and closed minutes that have been approved.

B. All decisions that have been rendered.

C. Resolutions that have been adopted since the last report.

8.05. *Motions; Resolutions; Decisions.* Boards shall take official action by either motion or resolution. Boards shall take action in regards to an administrative hearing by written decision which may have both majority and dissenting opinions. Motions shall be clearly stated and take effect upon adoption, whether or not the minutes have been approved. Resolutions shall be numbered consecutively with the following system – [initials of board]-[year]-[resolution number] – and certified by the secretary of the Board in the

Certification

I, [name], as Secretary of [name of Board] do hereby certify that this resolution was adopted on [date] by a vote of ___ for, ___ opposed, and ___ abstaining. This resolution has not been amended or rescinded in any way.
Signature/Title

following manner.

Article IX. Oath of Office

9.01. *General.* All board members shall take an oath of office. No authority to act as a board member shall be conferred until the oath is taken by the board member. The Tribal Court shall give all oaths of office and cause to be delivered to the individual two signed copies of the oath. One of the signed originals shall be presented to the Ogema.

9.02. *Boards.* The oath of office for boards shall be in the format identified below.

<p>[Name of Board] Oath of Office</p> <p>I, [name], being duly appointed by the Ogema and my nomination approved by the Tribal Council, do hereby solemnly swear and affirm to uphold the Constitution and laws of the Little River Band of Ottawa Indians and to carry out my responsibilities as a member of [name of board] with the utmost care and professionalism and in accordance with the by-laws and directives of the [name of board].</p> <p>Signed and sworn before me this ___ day of _____, 2001, Term Begins: Term Ends:</p> <p>Member Tribal Court Judge</p>
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9.03. *Confidentiality.* Upon appointment, and at the first meeting of the board during which the new board member is present, the board shall require a confidentiality statement to be signed and filed with the board’s records. Such confidentiality statement shall include the records of the board, and the limits or requirements for accessing confidential records.

9.04. *Conflict of Interest.* Upon appointment, and at the first meeting of the board during which the new board member is present, the board shall require a conflict of interest statement to be signed and filed with the board’s records. Such conflict of interest statement shall identify what is a conflict of interest and the processes by which a board member must notify the board that a conflict of interest has evolved.

Article X. Conflict of Interest

10.01. *General.* The Little River Band encourages all members to participate in the governmental activities of the Tribe, especially as members of boards. However, it is also recognized that some members may have conflicts of interest arising out of personal or economic relationships that should be avoided so as to maintain a high degree of public trust in the governmental decisions and activities.

10.02. *Conflict of Interest; Defined.* A conflict of interest is defined as a reasonable foreseeability that any personal or economic interest of a boarder will be affected in any materially different manner from the interests of the general public, by any decision, enactment, agreement, award or other official action or function of any board of the Tribe. It is the intention of the Tribe that board members should disclose potential conflicts of interest as soon as possible and as set forth in this Section.

a. “Economic interest” means an interest held by a person, or member of the board member’s immediate family, or a business in which the person, or members of the board member’s immediate family, has a direct or indirect ownership amounting to 20% or more of such business, which is:

1. Any ownership, income, investment, security, or other beneficial interest in a business;
or
2. Any employment or prospective employment for which negotiations have already begun.

b. "Immediate family" means spouse, parents, grandparents, children, and persons living within the household, regardless of relationship.

10.03. *Disclosure.* All board members shall be required to file a conflict of interest disclosure form on an annual basis on or before August 1. The disclosure form shall be filed with the Tribal Ogema.

10.04. *Confidentiality of Disclosure.* The disclosure form shall be maintained in a confidential manner and shall not be subject to release except as set forth herein. Disclosure forms shall be maintained for a four year period, after which such forms may be properly disposed of.

a. *Board.* The Tribal Ogema, or Tribal Council, upon review of the disclosure form, shall forward a notice of conflict of interest to the board member, and the board, for correction.

b. *Written Request.* The board member may request in writing a copy of a filed disclosure form.

10.05. *Information Required to be Disclosed.* The following information shall be disclosed and included in the disclosure form. Provided that, the Tribal Council may require additional information that is reasonably related to identifying potential conflicts of interest.

a. Name and residence address of board member and names and relationship to the board member of every person residing at that address.

b. Name and address of every business in which the board member, has an economic interest or is employed.

c. Identification of every public office held by the board member.

d. A description of the goods and services provided by every business or employer listed in subsection (b).

e. Location and description of all real property, in which the board member, and/or every person listed in subsection (a), held any legal title or leasehold, business site, investment or other beneficial interest currently and during the preceding disclosure period, excluding the primary personal residence. In the alternative, a statement that the board to which the board member is appointed does not manage, buy, sell or otherwise have an interest in acquiring, managing, buying, or selling real property.

f. A statement that every board member is required to notify the board that he or she has received or given a gift or loan that exceeds \$100.00 to any person with which the board has or may do business.

I, _____, as a member of [board name] do hereby certify that the information above is true and correct and that failure to accurately and clearly identify any and all requested information may result in my removal from the [board name]. Further, I agree that in the event a conflict of interest is identified, that I have five business days, or a reasonable time approved by the [board name] to correct such conflict of interest or be subject

g. A statement at the end which reads substantially similar to that set out herein.

End.