



## Little River Band of Ottawa Indians

Resolution # 01-04-25-08

### Adoption of Gross Gaming Revenue Tax Ordinance Ordinance # 01-100-05

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.); and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is delegated the authority to enact ordinances to protect the general welfare of the Little River Band through Article IV, Section 7(a)(2) of the Constitution; and

WHEREAS, the Tribal Council and the Tribal Gaming Commission have the responsibility and duty to ensure that the gaming Enterprise is properly regulated and that adequate tribal supervision of the Enterprise exists; and

WHEREAS, the Tribal Council desires to ensure that adequate funding exists to fulfill these responsibilities; and

WHEREAS, The Tribal Council has the sovereign authority to enact taxes to fund its governmental operations; and

WHEREAS, the Tribal Council has developed the Gross Gaming Revenue Tax Ordinance to address these activities and responsibilities;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts for immediate implementation the Gross Gaming Revenue Tax Ordinance; and

IT IS FURTHER RESOLVED THAT the Tribal Council hereby directs that a copy of this resolution shall be forwarded to the Tribal Ogema, the Manager of the Little River Casino Resort, and the Chairpersons of the Business Board and the Gaming Commission.

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**CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSENT, and 1 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held at the Little River Band Community Center on APRIL 25, 2001, with a quorum being present for such vote.

Lisa M. McCatty

Lisa M. McCatty, Council Recorder

Joan Spalding

Attest:

Joan Spalding, Council Speaker

**GROSS GAMING REVENUE TAX ORDINANCE**  
Ordinance # 00-100-05

**Section 1. Purpose; Findings**

1.01. *Purpose.* The purpose of this Ordinance is to institute a tax on the gross gaming revenues of the Tribe's gaming Enterprise, in order to fund the reasonable regulatory costs incurred by the Tribal Gaming Commission and the reasonable fees, expenses and internal overhead costs incurred by the Tribe in overseeing the Enterprise.

1.02. *Findings.* The Tribal Council, in adopting this Ordinance, makes the following findings –

- a. The Tribal Council has the delegated authority and responsibility to enact ordinances to protect the general welfare of the Little River Band;
- b. The Tribal Council and the Tribal Gaming Commission have the responsibility and duty to ensure that the gaming Enterprise is properly regulated and that adequate tribal supervision of the Enterprise exists;
- c. The Tribal Council desires to ensure that adequate funding exists to fulfill these responsibilities; and
- d. The Tribal Council has the sovereign authority to enact taxes to fund its governmental operations.

**Section 2. Adoption; Amendment; Repeal**

2.01. *Adoption.* This Ordinance is adopted by the Tribal Council by Resolution # 01-04-25-08

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

**Section 3. Definitions.**

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

3.02. "Commencement Date" shall mean the first date that Gaming is conducted in the Permanent Facility pursuant to the terms of the Management Agreement.

3.03. "Compact" shall mean the gaming compact between the Tribe and the State of Michigan, dated as of December 3, 1998, entered into pursuant to Section 11(d)(3) of IGRA, as the same may from time to time be in effect.

3.04. "Enterprise" shall mean the Little River Band of Ottawa Indians Gaming Enterprise established by the Tribe to engage in gaming at the Interim Facility and the Permanent Facility.

3.05. "Gaming" shall mean any and all activities constituting class II or class III gaming (as defined in IGRA) which the Tribe is authorized to conduct under the Compact.

3.06. "Generally Accepted Accounting Principles" or "GAAP" shall mean generally accepted accounting principles as applied within the United States.

3.07. "Gross Gaming Revenue Tax" shall mean the tax instituted and imposed by this Ordinance.

3.08. "Gross Gaming Revenue (Win)" shall mean the net win from gaming activities conducted by the Enterprise which is the difference between gaming wins and losses before deducting costs and expenses, determined in accordance with GAAP consistently applied.

- 3.09. "IGRA" shall mean the Indian Gaming Regulatory Act of 1988, PL 100-497, 25 U.S.C. s.2701 et seq., as same may from time to time be amended.
- 3.10. "Interim Facility" shall mean the interim gaming facility constructed by the Tribe on the Property as it exists on the Effective Date of this Ordinance.
- 3.11. "Loan Agreement" shall mean the Taxable Construction Loan Agreement evidencing the Loan, as defined in the Management Agreement.
- 3.12. "Management Agreement" means the Management Agreement dated as of July 15, 1999, as amended as of August 15, 1999 between the Manager and the Tribe, as it may be further amended or restated from time to time.
- 3.13. "Manager" shall mean Manistee Gaming LLC, or any substitute or successor manager of the Enterprise.
- 3.14. "Permanent Facility" shall mean the permanent gaming facility, conference center, hotel, pool house and RV park to be constructed on the Property by the Tribe.
- 3.15. "Tribal Gaming Commission" shall mean the Little River Band of Ottawa Indians Gaming Commission created pursuant to the Tribal Gaming Ordinance to regulate Gaming of the Tribe in accordance with the Compact, IGRA and the Tribal Gaming Ordinance.
- 3.16. "Tribal Gaming Ordinance" shall mean the ordinance enacted by the Tribe, which authorizes and regulates Gaming on lands subject to the governmental power of the Tribe, as the same may be amended from time to time.
- 3.17. Terms used but not defined in this Ordinance shall have the same meaning herein as in the Management Agreement.

#### **Section 4. Administration.**

4.01. *Records and Record Keeping.* The Enterprise shall retain all records necessary for the administration of the taxes imposed under this Ordinance for a period of at least three years from the date such taxes were paid to the Tribe. All of such records are subject to audit by the Tribe.

#### **Section 5. Gross Gaming Revenue Tax.**

5.01. *Imposition of Tax.* A tax is imposed on the Gross Gaming Revenue (Win) of the Enterprise in the amount of two and one-half per cent (2.5%) of such Gross Gaming Revenue (Win) generated as a result of Gaming conducted at the Interim Facility and three per cent (3%) of such Gross Gaming Revenue (Win) generated as a result of Gaming conducted at the Permanent Facility.

5.02. *Collection and Payment of Tax.* The tax imposed by section 5.01 hereof shall be payable monthly in arrears, no later than twenty days after the end of each month. During the Term of the Management Agreement, unless the Management Agreement is earlier terminated in accordance with its terms, Manager shall deliver to the Tribe a certificate signed by an officer of Manager at the time the tax is paid stating the amount of the tax and showing how such amount was computed.

5.03. *Admission of Tax.* The tax imposed by this Ordinance shall be administered by the Tribal Ogema. The Tribal Ogema may promulgated rules to administer this Ordinance and may prescribe the form of certificate to be filed at the time the tax is paid by a Gaming Enterprise subject to this tax.

5.04. *Effective Date.* This Ordinance shall be effective on the first day of the month following the

date on which it is adopted by the Tribal Council.

**Section 6. Use of Gross Gaming Revenue Tax Proceeds.**

6.01. *Use of Proceeds.* Proceeds from the Gross Gaming Revenue Tax shall be used to fund the reasonable regulatory costs incurred by the Tribal Gaming Commission and to fund the reasonable fees, expenses and internal overhead costs incurred by the Tribe in overseeing, or otherwise in relation to, the Enterprise.

6.02. *Deposit of Tax Revenues.* All tax revenues received under this Ordinance shall be deposited by the Tribal Ogema to the credit of the general fund and shall be disbursed only in accordance with the Budget and Appropriations Procedures Ordinance for the purposes described in section 6.01.

6.03. *Penalties.* Failure to pay any tax revenues required by this Ordinance in a timely manner shall result in a \$5000.00 penalty assessed on a daily basis.

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**CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing Ordinance was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSENT, and 1 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held at the Little River Band Community Center on APRIL 25, 2001, with a quorum being present for such vote by Resolution # 01-04-25-08.

Lisa M. McCatty

Lisa M. McCatty, Council Recorder

Joan Spalding

Attest: Joan Spalding, Council Speaker