

**Little River Band of Ottawa Indians**

375 River Street  
Manistee, MI 49660  
(231) 723-8288

**Resolution # 05-0316-112**

*Emergency Adoption of the Legal Counsel Reform Act of 2005, Ordinance # 05-100-08*

**WHEREAS**, the government of the Tribe has rapidly grown into a multifaceted, complex operation which includes numerous Departments, businesses, and hundreds of employees working in governmental and business capacities; and,

**WHEREAS**, the Constitution of the Tribe ("Constitution") separates the functions of government into three distinct branches with the Tribal Council possessing legislative powers, the Ogema possessing executive powers, and the Courts possessing judicial powers; and,

**WHEREAS**, the Constitution authorizes the Tribal Council to employ legal counsel and to authorize and appropriate funds for such purposes; and,

**WHEREAS**, the Constitution authorizes the Tribal Council to create Departments within the executive branch of government, and to authorize and appropriate funds for such purposes; and,


**WHEREAS**, the Tribal Council has determined that, in order to improve the efficiency of the government and to avoid conflicts of interest, it is in the best interests of the Tribe to establish a Legislative Legal Counsel Office in the Legislative branch of government under the authority of the Tribal Council and a separate Legal Department in the Executive branch of government under the authority of the Ogema.

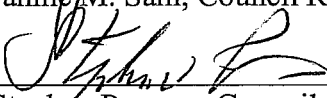
**WHEREAS**, the Tribal Council has posted for Public Comment the Legal Counsel Reform Act of 2005 on March 2, 2005 in accordance with the Administrative Procedures Act – Ordinance; and

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians, in accordance with Article IV, Section 7 of the Constitution, and Article V of the Administrative Procedures Act – Ordinances regarding the adoption of emergency action prior to the conclusion of the Public Comment period, adopts the attached law, entitled Legal Counsel Reform Act of 2005, Ordinance # 05-100-08, for immediate implementation.

**CERTIFICATE OF ADOPTION**

We hereby certify that the foregoing Resolution and attached Ordinance was duly presented and adopted by the Tribal Council, with a quorum present, by a vote of 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Meeting of the Tribal Council of the Little River Band of Ottawa Indians at Little River Band Dome Room held on March 16, 2005, in Manistee, Michigan.

  
\_\_\_\_\_  
Janine M. Sam, Council Recorder

  
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Stephen Parsons, Council Speaker

Attest:

# BILL

To establish a Legislative Legal Counsel Office in the Legislative branch of government and a separate Legal Department in the Executive branch of government.

## LEGISLATIVE LEGAL COUNSEL AND EXECUTIVE LEGAL COUNSEL

### ARTICLE I - TITLE.

1.01. Title. This law shall be referred to as the “Legal Counsel Reform Act of 2005” (“Act”).

### ARTICLE II - FINDINGS.

2.01. Findings. The Tribal Council finds:

- (a). The government of the Little River Band of Ottawa Indians (“Tribe”) has rapidly grown into a multifaceted, complex operation which includes numerous Departments, businesses, and hundreds of employees working in governmental and business capacities; and,
- (b). The Constitution of the Tribe (“Constitution”) separates the functions of government into three distinct branches with the Tribal Council possessing legislative powers, the Ogema possessing executive powers, and the Courts possessing judicial powers; and,
- (c). The Constitution authorizes the Tribal Council to employ legal counsel and to authorize and appropriate funds for such purposes; and,
- (d). The Constitution authorizes the Tribal Council to create Departments within the executive branch of government, and to authorize and appropriate funds for such purposes; and,
- (e). In order to improve the efficiency of the government and avoid conflicts of interest by allowing lawyers to work for both the Legislative and Executive branches of government at the same time, it is in the best interests of the Tribe to establish a Legislative Legal Counsel Office in the Legislative branch of government under the authority of the Tribal Council and a separate Legal Department in the Executive branch of government under the authority of the Ogema.

### ARTICLE III - PURPOSE.

3.01. Purpose. The purpose of this Act is to establish a Legislative Legal Counsel Office in the Legislative branch of government under the authority of the Tribal Council and a separate Legal

Department in the Executive branch of government under the authority of the Ogema.

#### **ARTICLE IV - LEGISLATIVE LEGAL COUNSEL OFFICE.**

##### **4.01. Establishment.**

- (a). The Tribal Council hereby creates and establishes the Legislative Legal Counsel Office within the Legislative Branch of government.
- (b). The Legislative Legal Counsel Office shall be under the exclusive authority and supervision of the Tribal Council.

##### **4.02. Chief Legislative Counsel and Assistant Legislative Counsel.**

- (a). The Director of the Legislative Legal Counsel Office shall be called the Chief Legislative Counsel. The Chief Legislative Counsel shall be an individual hired by the Tribal Council and shall be employed at the discretion of the Tribal Council.
- (b). Each attorney working in the Legislative Legal Counsel Office shall have the title of Assistant Legislative Counsel and shall be under the supervision of the Chief Legislative Counsel.
- (c). The Chief Legislative Counsel and each Assistant Legislative Counsel shall be a licensed member in good standing of a State bar association. A candidate for the position of Chief Legislative Counsel or Assistant Legislative Counsel shall disclose to the Tribal Council any pending or unresolved bar complaints against such candidate. The Chief Legislative Counsel and each Assistant Legislative Counsel shall, within one year of their employment by the Tribal Council, become a licensed member in good standing of the Michigan State bar association.
- (d). Any attorney who has been previously employed by the Tribe in any capacity and who was terminated from such employment for cause shall not be eligible to work in the Legislative Legal Counsel Office.

##### **4.03. Selection.**

- (a). In consultation with the Tribal Council, the Speaker of the Tribal Council shall be authorized to hire and employ a qualified individual to serve as Chief Legislative Counsel in accordance with the Constitution and laws of the Tribe.
- (b). Indian preference shall be applied to the hiring of a Chief Legislative Counsel.
- (c). The Chief Legislative Counsel shall be an individual employed as a full-time in-house employee of the Tribe.

#### 4.04. Duties.

- (a). The Office of Legislative Counsel and the Chief Legislative Counsel shall serve as legal counsel for the Tribal Council, and shall provide legal advice and assistance to the Tribal Council in accordance with the legislative powers of the Tribal Council listed in Article IV, §7 of the Constitution.
- (b). Upon request of the Tribal Council, the Office of Legislative Counsel shall develop laws, ordinances, resolutions, or amendments thereto for consideration by the Tribal Council.
- (c). The Chief Legislative Counsel shall prepare a proposed annual budget for the Office of Legislative Counsel and shall present such budget to the Tribal Council for review and approval in accordance with the Constitution and laws of the Tribe.

4.05. Compensation. The Chief Legislative Counsel and each Assistant Legislative Counsel shall be paid reasonable compensation as authorized by the Tribal Council; provided, that such compensation shall be subject to the power of the Tribal Council to appropriate funds for such purposes.

### **ARTICLE V - EXECUTIVE LEGAL DEPARTMENT.**

#### 5.01. Establishment.

- (a). The Tribal Council hereby creates and establishes a Legal Department within the Executive Branch of government ("Legal Department").
- (b). The Legal Department shall be under the authority and supervision of the Ogema.

#### 5.02. General Counsel and Assistant General Counsel.

- (a). The Director of the Legal Department shall be called the General Counsel. The General Counsel shall be hired by the Ogema and shall be employed at the discretion of the Ogema. The Ogema may enter into an employment contract with the General Counsel for a term no longer than the existing term of the Ogema; provided, that any such contract shall be subject to ratification by the Tribal Council in accordance with Article IV, §7(b) of the Constitution.
- (b). Each attorney working in the Legal Department shall have the title of Assistant General Counsel and shall be under the supervision of the General Counsel.
- (c). The General Counsel and each Assistant General Counsel shall be a licensed member in good standing of a State bar association. The General Counsel and each Assistant General Counsel shall, within one year of their employment by the Ogema, become a licensed member in good standing of the Michigan State bar

association, or shall obtain a waiver of this requirement from the Ogema.

- (d). Any attorney who has been previously employed by the Tribe in any capacity and who was terminated from such employment for cause shall not be eligible to work in the Legal Department.

#### 5.03. Selection.

- (a). The Ogema shall be authorized to hire and employ a qualified individual to serve as General Counsel in accordance with the Constitution and laws of the Tribe.
- (b). Indian preference shall be applied to the hiring of a General Counsel.
- (c). The General Counsel shall be an individual employed as a full-time in-house employee of the Tribe.

#### 5.04. Duties.

- (a). The General Counsel shall serve as legal counsel for the Tribe, and shall provide legal advice and assistance to the Ogema, executive departments, boards, commissions, and businesses owned by the Tribe; provided, that, if the Tribal Council authorizes separate legal counsel for any business of the Tribe, then the General Counsel shall not serve as legal counsel for such business.
- (b). The Legal Department, the General Counsel, and each Assistant General Counsel shall act in accordance with the executive powers of the Ogema listed in Article V, §5 of the Constitution.
- (c). The General Counsel shall prepare a proposed annual budget for the Legal Department in accordance with the power of the Ogema to prepare and present an annual budget to the Tribal Council under Article V, §5(a)(5) of the Constitution, and in accordance with the power of the Tribal Council to approve or amend the annual budget.

5.05. Compensation. The General Counsel and each Assistant General Counsel shall be paid reasonable compensation as authorized by the Tribal Council; provided, that such compensation shall be subject to the power of the Tribal Council to appropriate funds for such purposes.

### **ARTICLE VI - REPEAL OF RESOLUTIONS**

6.01. Repeal. The following Resolutions are hereby repealed: Resolution #03-806-239, Resolution #04-0915-374, and Resolution #05-0119-28.

### **ARTICLE VII - SEVERABILITY**

7.01. Severability. If any provision of this Act is held to be void, invalid, or unenforceable, it

shall be considered deleted from this Act and the invalidity of such provision shall not affect the validity or enforceability of any other provision which shall be given effect in the absence of the invalid provision. The remaining provisions shall continue in full force and effect without being invalidated.