



Little River Band of Ottawa Indians

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

Resolution # 05-0608-240

Adoption of Emergency Amendments to the Tribal Elders Assistance Program Ordinance Regarding Expansion of Application and Participation Periods

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; 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 Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council adopted the Tribal Elders Assistance Program Ordinance in 2000, for the purposes of meeting the needs of Elders who experience increased housing, food, clothing, and medical costs as a result of long term inability to participate in education and employment opportunities and generally advancing age; and

WHEREAS, the Tribal Elders Assistance Program has been effective providing benefits to Elders that their immediate needs in housing, heating, food and medical costs as identified in annual reporting of use statistics to the Tribal Council; and

WHEREAS, the Tribal Council has identified that the program provides necessary funds to Elders such that delaying the availability the program benefit does not allow Elders to actively participate in determining when their needs can be best addressed through this program benefit; and

WHEREAS, the Tribal Council adopted the Administrative Procedures Act - Ordinances which identifies processes by which ordinances may be adopted, amended, or repealed, and which also identifies processes by which emergency amendments may be authorized;

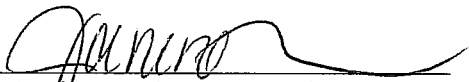
WHEREAS, the Tribal Council finds that emergency adoption to allow a broader period of participation, is necessary to allow members to meet their own needs through this program benefit;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts, under authority of Article V of the Administrative Procedures Act - Ordinances, the emergency amendments to the attached Tribal Elders Assistance Program Ordinance which shall be effective for a six month period or until permanent amendments can be presented for Public Comment and permanently adopted.

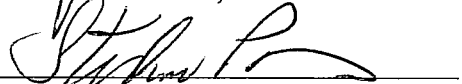
IT IS FURTHER RESOLVED THAT the Tribal Council directs that the amendments be posted for Public Comment.

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 ABSTAINING, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on June 8, 2005, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court

ELDER'S ASSISTANCE PROGRAM ORDINANCE

Ordinance # 05-700-03

Section 1 Article I. Purpose; Findings

1.01. Purpose.

~~a.~~ This Tribal Elder's Assistance Program has been developed to promote the general welfare of the Elder population by assisting Tribal Elders in addressing their need for sufficient health care, housing, utilities, transportation, safety, dignity and quality of life.

~~1.02 b.~~ It is the intention of the Tribal Council to establish this Elder's Assistance Program to be consistent with the General Welfare Doctrine as recognized by the Internal Revenue Service (~~IRS~~) and that the assistance payments made under this program be exempt from federal income taxes. (P.L.R. 8840031)(July 11, 1988); Bannon v C.I.R., 99 T.C. 59, 62 (1992).

~~1.03 c.~~ The Tribal Council believes that the most effective means of addressing the wide range of needs Tribal Elders have is to provide general assistance payments to Tribal Elders, which are not restricted to specific purposes, and which allow Tribal Elder to make their own decisions regarding the allocation or use of assistance payments.

~~1.04 d.~~ This Ordinance is intended to comply with the requirements of the Tribal Constitution, the Little River Band of Ottawa Indians Gaming Ordinance, Ordinance No. 97-400-01, as amended, and the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 et seq. ("IGRA").

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

a. the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility 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[.]" *Article IV, Section 7(a).*

Section 2. Findings:

~~The Tribal Council of the Little River Band of Ottawa Indians finds:~~

~~2.01 b.~~ Tribal Elders as a class experience higher rates of poverty, isolation, chronic disease, mental health and other socio-economic problems than the general population, including the general population of Tribal members. These findings are substantiated by the 1992-1996 Long Term Care Study conducted by the Institute of Gerontology at Wayne State University, which specifically assessed the socio-economic conditions of the Tribal Elder population of the Little River Band of Ottawa Indians. (E. Chapleski et al.)

~~2.02 c.~~ Consistent with the traditions and values of the Anishnabek, Tribal Elders hold positions of honor and respect in our society and the institution of programs that promote the health and general welfare of Tribal Elders should be a priority of Tribal Government.

~~2.03 d.~~ Nearly half of all Tribal Elders within the Little River Band of Ottawa Indians are 70 years of age and older. It is widely recognized that with increasing age, the incidence of chronic disease, functional limitations and other social and economic need increases.

~~2.04 e.~~ The current, single-purpose assistance programs available through the Tribe cannot adequately meet the diverse needs of Tribal Elders.

~~2.05 f.~~ The Tribal government has a responsibility to address the critical, unmet needs of Tribal Elders without further delay and without imposing intrusive procedural and paperwork requirements on Tribal Elders.

~~2.06 g.~~ Tribal Elders can best be served by an assistance program that gives Tribal Elders the right

to determine their own priorities and the right to allocate assistance payments to those priorities.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is adopted by Tribal Council resolution # 00-1111-05.

a. This ordinance was amended to update format and program guidelines by resolution # 05-0608-239.

2.02. *Amendment.* This Ordinance may be amended in accordance with the procedures set forth in the Administrative Procedures Act - Ordinance.

2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the APA-O.

2.04. *Severability.* 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.* As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.

~~Section 3. Definitions. For the purposes of this Ordinance:~~

3.02. *Elder Assistance Payment* means the payment(s) made to Qualified Tribal Elders who apply for assistance and meet the eligibility requirements established for the Elder's Assistance Program.

~~3.03. *Elders' Committee* means the standing advisory committee created for the purpose of coordinating established for the purpose of representing Tribal Elders.~~

3.03. *Qualified Tribal Elder* means any duly enrolled Tribal member of the Little River Band of Ottawa Indians who is, or will be, 55 years of age or older as of December 31st of the year in which the Elder Assistance Payments are distributed.

Section 4 Article IV. Assistance Payments to Tribal Elders

4.01. *Elder's Assistance Fund.* In order to promote the governmental purpose of providing for the health, welfare, and safety of Tribal Elders, the Tribal Council hereby establishes an Elder's Assistance Fund to make general welfare assistance payments to Tribal Elders.

4.02. *Schedule of Qualified Tribal Elders.* Before ~~October~~ January 1st of each year, the ~~Tribal Registrar~~ Enrollment Office shall prepare and certify a schedule containing the name, address and age of each qualified Tribal Elder and present the schedule to the Membership Assistance Department. The schedule of Tribal Elders shall be updated annually.

4.03. *Eligibility.* Every qualified Tribal Elder whose name appears on the schedule of Tribal Elders shall be eligible to receive Elder's Assistance Payments authorized for the next Fiscal Year, provided he/she submits an application for assistance on the form prepared for that purpose ~~on or before November 1 of the program year.~~

~~4.04. The Elder's Committee, with the assistance of the Tribe's Family Services Department, shall develop appropriate procedures, including a simplified application form, to implement this Elders' Assistance Program. In promulgating those procedures, the Elders' Committee shall not have the authority to adopt any procedures which conflict with any express terms or limitations contained in this Ordinance.~~

4.04. *Schedule of Annual Payment.* Subject to the availability of general revenue funds, every Tribal Elder submitting a completed application for an Elder's Assistance Payment shall receive an assistance payment according to a schedule to be proposed by the Tribal Ogema and approved by the Tribal Council.

4.05. *Appropriation for Elder's Assistance Fund to be Included in Tribal Budget.* The Tribal Ogema shall, in consultation with the Tribal Controller, determine the amount of general revenue funds, which amount may be allocated to the Elder Assistance's Program and the level of assistance payments proposed for Tribal Elder

in each age classification. The Tribal Ogema shall request an appropriation of general revenue funds sufficient to fund the Elder's Assistance Program proposed as part of the Tribal Budget.

4.06. *Graduated Assistance Payments Based on Age 55 or 70 or Unmet Needs.* The schedule of payments proposed by the Tribal Ogema for Tribal Elders shall include graduated assistance payments, which provide larger assistance payments for Tribal Elders in older age classes or for groups of elders with greater, demonstrated unmet needs. *For Fiscal Year 2005, the following payments are authorized.*

a. *The sum of \$2,000.00 shall be paid to each qualified Tribal Elder who is living and will have attained the age of 55 years of age, but will be less than 70 years of age as of the eligibility date.*

b. *The sum of \$3,000.00 shall be paid to each qualified Tribal Elder who is living and will have attained the age of 70 years of age or older as of the eligibility date.*

4.07. ~~Tribal Elders may elect to receive their Elder Assistance Payment in a lump sum, quarterly payments or monthly payments in accordance with the procedures developed by the Elders' Committee.~~

4.07. *Program Access Date.* ~~The Elder's Assistance Program shall be accessible from February 1st to November 1st of each fiscal year in which program funds are budgeted.~~

4.08. *Deadline.* ~~Elder's Assistance Payments must have applications submitted no later than November 1st of the eligibility year.~~

4.09. *Program Application.* ~~The Members Assistance Program shall develop an application for the Elder's Assistance Program which requests information regarding the need and/or use of the funds.~~

Section 4a. Elder Assistance Program for Fiscal Year 2000:

4.01a. ~~Elder Assistance Payments for Fiscal Year 2000.~~ For purposes of the initial assistance payments to be made in Fiscal Year 2000, the following schedule of payments shall be utilized:

(a) ~~The sum of \$2,000.00 shall be paid to each qualified Tribal Elder who is living and will have attained the age of 55 years of age, but will be less than 70 years of age as of December 31, 2000.~~

(b) ~~The sum of \$3,000.00 shall be paid to each qualified Tribal Elder who is living and will have attained the age of 70 years of age or older as of December 31, 2000.~~

4.02a. ~~Elder Assistance Payments shall be made in a lump sum check mailed to the last known address of each qualified Tribal Elder on or before December 15, 2000.~~

4.03a. ~~Applications must be postmarked on or before December 15, 2000 to be eligible to receive an Elder Assistance Payment for Fiscal Year 2000. Provided that, the Tribal Council, at the request of the Tribal Ogema, may create, by resolution, exceptions to this deadline date in the interest of providing needed assistance to qualified Tribal Elder's where the application was received after the deadline date, but prior to December 31, 2000.~~

Section 5 Article V. Review of Elder's Assistance Program

5.01. ~~Prior to December 1, 2001, the Tribe's Family Services and Health Departments shall survey Tribal Elders to analyze the impact and effectiveness of the Elder Assistance Program. That analysis shall include information assessing the number of Tribal Elders served, the purposes for which Elder Assistance Payments are used, and the level and type(s) of continuing unmet needs amongst Tribal Elders in various age classes to provide recommendations to the Tribal Council to improve the effectiveness of the Program. Review of Responses. The Membership Assistance Department shall create a report identifying the uses of Elder's Assistance Payments to be presented to the Tribal Council and Tribal Ogema.~~

Section 6. Severability:

6.01. ~~If any section, or any part thereof, of this Ordinance or the application thereof to any party, person or entity or in any circumstance shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by the Department of the Interior, the remainder of the section or part of this Ordinance shall not be affected and shall remain in full force and effect as though no section or part has been declared to be~~

invalid:

~~Section 7. No Waiver of Sovereign Immunity:~~

~~7.01. Nothing in this Ordinance shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.~~

~~Section 8. Effective Date:~~

~~8.01. This Ordinance shall take immediate effect after the date of its enactment.~~