

Little River Band of Ottawa Indians

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

Resolution # 05-0727-345

Adoption of the Aki Maadiziwin Subdivision Building Restrictions Ordinance, # 05-550-02

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 created the Housing Commission by ordinance which has requested, and received approval, of the development of the Aki Maadiziwin Subdivision by the primary resolutions # 03-0226-58 and # 03-1022-355; and

WHEREAS, the Tribal Council has adopted the Residential Lot Lease and Leasehold Mortgage Program Act, by resolution # 05-0427-165 in order to facilitate Tribal member construction of homes on available lots; and

WHEREAS, the Tribal Council received a request to adopt legislation which set building restrictions at the Aki Maadiziwin subdivision to identify minimum building requirements in order to maintain the quality of buildings from the Housing Commission and has determined that this is an appropriate action; and

WHEREAS, the Tribal Council, in accordance with the Administrative Procedures Act - Ordinances, posted on May 19, 2005, for Public Comment, the Aki Maadiziwin Subdivision Building Restrictions Ordinance and received two informal comments; and

WHEREAS, the Tribal Council, in a July 21, 2005 final work session, approved the final draft of the Aki Maadiziwin Subdivision Building Restrictions Ordinance and directed that it be forwarded for adoption;

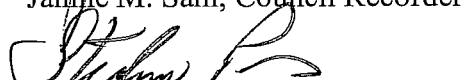
NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts, for immediate implementation, the Aki Maadiziwin Subdivision Building Restrictions Ordinance, Ordinance # 05-550-02.

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, 0 ABSENT, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on July 27, 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

AKI MAADIZIWIN SUBDIVISION BUILDING RESTRICTIONS ORDINANCE
Ordinance #05-550-02

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this Ordinance is to create and establish certain protective covenants and building restrictions for the Aki maadiziwin subdivision to help maintain an integrated community for the benefit and enjoyment of the leaseholders of lots within the subdivision.

1.02. *Findings.* The Tribal Council finds that -

a. It is delegated responsibility, in Article IV, Section 7(a) of the Constitution, "to exercise the inherent powers of the Little River Band by establishing ordinances 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,"

b. It is further delegated responsibility, in Article IV, Section 7(j) of the Constitution, "to take action not inconsistent with this Constitution or Federal law, which shall be necessary and proper to carry out the sovereign legislative powers of the Tribe.

c. The Tribe has developed the *Aki maadiziwin* subdivision and through the Leasehold Mortgage Program it is expected that Tribal members will be building residential homes in the available lots.

d. In order to protect the integrity of the community it is necessary to establish general restrictions that guarantee protections to Tribal members who invest in the leased lots.

Article II. Adoption; Amendment; Short Title; Severability

2.01. *Adoption.* This Ordinance is adopted by Tribal Council resolution # ____.

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

2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act - Ordinances.

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.

2.05. *Short Title.* This Ordinance may be cited as the Aki maadiziwin Building Restrictions.

Article III. Definitions

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

3.02. *Tribe* means the Little River Band of Ottawa Indians.

3.03. *Tribal Council* means the Tribe's governing body.

3.04. *Lot* means a parcel of real estate upon Tribal lands designated for use as a single family, townhouse, condominium or other single family ownership.

3.05. *Lease holder* means the individual Tribal member who has leased a specific lot upon Tribal lands.

3.06. *Lease* means a residential lease regarding a lot on Tribal lands entered into between the Tribe and any individual Tribal member issued in the form approved by the United States Department of the Interior Bureau of Indian Affairs, whether or not has been issued to implement the various federal programs available to insure or guaranty a mortgage loan. This definition does not apply to the residential lease for low income elder and tribally owned rental homes executed as per Resolution 05-0119-23.

3.07. *Tribal member* means an individual enrolled as a member of the Tribe.

3.08. *Family* means and adult living with or without children, an elder, a near elderly person, a disabled person, and/or a single person.

3.09. *Housing Review Board* is the entity in charge of approving residence plans for construction and certifying compliance with this Ordinance.

Article IV. Occupancy restrictions

4.01. *Residence purpose.* It is the policy of the Tribe that all residential lot leases are intended for homestead purposes; therefore, all lots leased by Tribal members shall be used for the sole purpose of providing a single-family residence.

4.02. *Limits on dwellings size.* Lots leased by Tribal members shall be limited to one single family dwelling unit with a minimum of 1,000 (one thousand) square feet and a maximum of 2,500 (two thousand five hundred) square feet of living space. Each house shall have an attached garage capable of housing at least one vehicle, provided that the total square feet area of the garage must not exceed 500 square feet.

4.03. *Prohibited structures.* No structure or shelter of a temporary character such as a vehicle, trailer, basement, tent, shack, garage, or other building shall be used on any lot at any time as a residence, either temporarily or permanently. Only a permanent dwelling may be used as a residence, and then only upon its certification. No certification of occupancy will be issued if the structure has an unfinished exterior.

4.04. *Allowed Structures.* No structure shall be erected, altered, placed or permitted to remain on any residential building lot, other than one detached single-family dwelling, a private garage and an additional out-building of not more than 144 sq. ft. (12' x 12'); however, the construction of this building must be in harmony with the exterior appearance of the house and surrounding houses in the subdivision and it must sit on a concrete slab. The plans, including location, must be approved by The Housing Review Board prior to its erection.

4.05. *Types of homes allowed.* No manufactured homes or any other kind of home that is built on a non-removable steel chassis, which segments are not always placed on a permanent foundation, are allowed. Modular homes built to conform to all state, local or regional building codes at their destinations are allowed. However, the leaseholder who wishes to build a modular home in a lot at the subdivision shall request prior authorization and approval certification of the plans from the Housing Board of Review.

4.06. *Structures set offs.* All buildings erected, placed or allowed to remain on any lot shall be situated only within that portion of the lot not restricted from use by easement or right of way, and shall not be nearer than 25 feet from any street, not nearer than 10 feet from any side lot line and not nearer than 35 feet from any rear lot line. Utility easements and rights of way are hereby reserved for all public utility companies for construction, installation and maintenance of any and all utilities, such as underground power, gas lines, sewers, roads, water supply lines, drains, underground telephone, cable television or the like, necessary or desirable for the public health and welfare as authorized by Tribal Council by Resolution #03-1022-355.

4.07. *Permanent Signs.* No permanent signs of any kind shall be displayed to the public view.

4.08. *Fuel Storage Tanks.* No fuel storage tanks will be allowed; however, small Liquefied Petroleum (L.P.) tanks for grills are an exception to the rule. Natural gas connections to household outdoor grills are allowed as long as they are done by a professional and prior notification to the Housing Review Board. Such notification should contain the name of the installer and a brief description of the materials and procedure to be utilized for installation.

4.09. *Nuisance and Waste.* No lot shall be used in whole or in part for the storage of any property or object that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye: nor shall any activity be carried on, or substance kept, on any lot that will emit foul or obnoxious odors, that will cause unreasonable noise, or will become a nuisance to the neighborhood. Cars or other vehicles parked on the premises shall have a current circulation license permit for not to be considered a nuisance under this section. Vehicles not subject to licensing requirements will be considered a nuisance depending on their operable conditions and length of time it remains parked or left unattended on the premises.

4.10. *Animals.* No animals, livestock, or poultry of any kind shall be raised, bred or kept on any part of any lot, except that dogs, cats or any other household pets may be kept thereon if they are not raised, bred, kept, or maintained for commercial purposes and comply with the Housing Regulations regarding Pet and Animal Control.

4.11. *Outdoor lightning.* No outdoor property night-lighting of any kind shall be permitted to cast its rays

upward or outward beyond any of the boundary lines of the lot on which it is installed and/or maintained.

4.12. *Fences.* No fence shall be erected that extends beyond the front of the dwelling/garage. The maximum height of allowed fences is 6 feet. The placement of the fence in relationship with the property line will be determined by the Housing Review Board.

4.13. *Drainage.* The builder must ensure that grading of the property, ground/surface water runoff, and rain water (water collected by gutters, patios, driveways, etc.) shall be properly collected by an approved drain system, retaining walls and proper grading to ensure disposal of excessive runoff and not onto adjacent properties.

4.14. *Driveways.* All driveways shall be paved concrete, sealed crushed asphalt or any permeable pavement.

Article V. Enforcement

5.01. *Term of Restrictions.* The following restrictive covenants, reservations and requirements shall be mandatory to all lease holders, successors and assigns and shall be binding on all parties claiming a right to a lease over one of the lots leased by the Tribe at the Aki maadiziwin subdivision.

5.02. *Right of leaseholder.* It shall be lawful for any person or persons holding any lease to any real property situated in the said subdivision to prosecute any proceedings at law or in equity against any person or persons violating or attempting to violate these covenants and restrictions, an either to restrain violation or to recover damages or both. This cause of action is personal to the Tribal member lease holder of record with the Tribe and can be exercised only in Tribal Court.

5.03. *Citation Authority.* This Ordinance confers authority to Tribal Police, prompted by a neighbor or interested party complain, to issue citation notices to residents that appear in open infraction of any of the above restrictions. The citation must specify the nature of the complain. Tribal Police are authorized to cite the resident to the next available hearing date of the Housing Review Board.

Article VI. Administration of the Ordinance

6.01. *Housing Review Board.* The Tribe designates a Housing Review Board to oversee the compliance with this ordinance. The Housing Review Board will be comprised by the Housing Director, the Planning Department Director and one subdivision resident nominated by the Ogema and approved by Tribal Council. This member of the Housing Review Board shall serve for a 3 year-period unless he cease from being a resident at the subdivision before the end of his term. The decisions of the Board will be by majority vote. Upon its inception, the Board is authorized to issue its own by-laws. Decisions of the Housing Review Board can be appealed before the Housing Commission as per the Housing Commission Ordinance.

6.02. *Duties.* The duties of the Housing Review Board are as follow:

- a. Review and approve the construction plans and its compliance with the restrictions set forth in this ordinance.
- b. Review and approve the design and construction of out buildings.
- c. Issue certificates of compliance with the Subdivision Building Ordinance.
- d. Serve as Board of Complains for violations of the Subdivision Building Ordinance having the power to issue fines and notices of non-compliance to residents in violation of the Ordinance.
- e. Review, approve and issue certification of compliance for modular home construction.
- f. Establish the definitive location for fences in relationship with the property line.