



Little River Band of Ottawa Indians

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

Resolution # 05-0907-432

Emergency Amendments to Legal Counsel Reform Act of 2005 to Correct Limitations on Tribal Council and Tribal Ogema Action in the Absence of Legal Counsel

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 Legal Counsel Reform Act of 2005 in order to clarify the responsibilities of legal counsel engaged by the Tribe in order to maximize services to meet the needs of the Tribe; and

WHEREAS, the Tribal Council has identified that an unintended restriction has been identified in “Article VI. Limitations on Activities in the Absence of Employed Counsel; Approval of Job Descriptions and Posting” that should be corrected on an emergency basis to avoid resulting in unintended illegal actions; and

WHEREAS, the Tribal Council has identified that no elected officer of the Tribe should be prohibited from filing civil actions in the Tribal Court in order to clarify the duties of their offices and that Article VI was intended to address other legal negotiations conducted without the benefit of legal counsel; 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Administrative Procedures Act - Ordinances which identifies processes by which ordinances may be adopted, amended, or repealed, and which also identifies processes by which emergency amendments may be authorized;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 the Legal Counsel Reform Act of 2005, is necessary to allow officers to carry out the duties of their office;

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 following emergency amendments to the Legal Counsel Reform Act of 2005 which shall be effective for a six month period or until permanent amendments can be presented for Public Comment and permanently adopted.

6.04. *Elected Officer Authority in the Absence of Legal Counsel.* Notwithstanding the prohibitions in this Article, the Ogema, the Tribal Council, or any Tribal Councilor, shall not be prohibited from filing civil actions for declaratory relief in the Tribal Court for the purposes of clarifying the duties of their office.

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, 0 ABSENT, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on September 7, 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