



Little River Band of Ottawa Indians

2608 Government Center Dr.

Manistee, MI 49660

(231) 723-8288

Resolution #16-1116-352

Approving Amendments to Housing Regulations Chapter 2-Admission Procedures for Low Income Elder and Tribally Owned Homes

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 Tribe adopted amendments to the Constitution on July 11, 2016 which became effective upon approval by the Assistant Secretary-Indian Affairs on August 24, 2016; and

WHEREAS, the legislative powers of the Little River Band are vested in the Tribal Council at Article IV, Section 7 of the Constitution; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) of the Constitution to enact ordinances and adopt resolutions to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members and to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(f) to create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs of the Little River Band; and

WHEREAS, the Tribal Council did by Ordinance #04-700-01 create the Housing Commission to oversee and regulate the Tribe's housing with the delegated power in Section 6.01(a) of that ordinance to develop and adopt regulations governing Tribal housing on Tribal trust or fee lands; and

WHEREAS, the Housing Commission has requested Tribal Council make amendments to the Chapter 2 Regulations to address what they believe is an unduly harsh and punitive admission requirement; and

WHEREAS, the Housing Commission believes the current admission regulations are prohibiting Tribal members, who are in desperate need of housing, from qualifying for Tribal housing opportunities; and

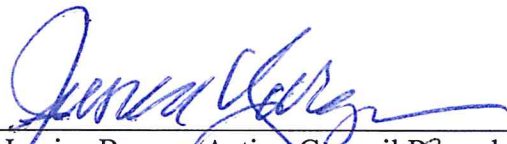
WHEREAS, some of these denials have left Tribal members in unsafe or unhealthy living conditions; and

WHEREAS, the proposed amendments were posted for 30 day public comment and no comments were received; and

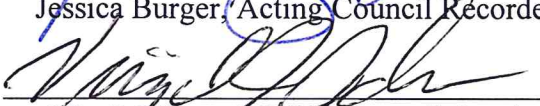
NOW THEREFORE IT IS RESOLVED that the Tribal Council adopts the attached amendments to the Housing Regulations, Chapter 2-Admission Procedures for Low Income Elder and Tribally Owned Homes.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 0 AGAINST, 0 ABSTAINING, and 3 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on November 16, 2016, at the Little River Band's Government Center in Manistee, Michigan, with a quorum being present for such vote.



Jessica Burger, Acting Council Recorder



Virgil Johnson, Tribal Council Speaker

Attest:

Distribution: Council Records Tribal Ogema Housing Department Tribal Court

Chapter 2. Admission Procedures for Low Income Elder and Tribally Owned Homes

Section 1. Authority; Purpose

- 1-1. *Authority.* In accordance with sections 6.01(a) and (c) and 6.02 (e) and (g) of the Housing Commission Ordinance, #04-700-01, the Housing Commission hereby promulgates these regulations for eligibility for low income elder and tribally owned rental homes.
- 1-2. *Purpose.* The purpose of Chapter 2 is to identify the processes that are utilized to determine the occupant based on the applications and the information identified in the required background check.
- 1-3. *Application of Chapter 2.* Chapter 2 is applicable to all applicants and renters participating in the following Housing Department programs:
 - a. Elder Units Housing at Aki maadiziwin
 - b. Tribally owned rental units
 - c. Tribally owned low income rental units

Section 2. Definitions

- 2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word shall is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in Chapter 1 and the Housing Commission Ordinance are defined for the purpose of this Chapter.

Section 3. Selection and Screening Requirements

- 3-1. *Order of Selection.* The Housing Department shall select eligible applicants from the appropriate waiting list on a first come first serve basis. There shall be no preferences provided or exceptions to this policy.
- 3-2. *General screening.* Once selected and prior to placement in a home, the Housing Department shall conduct a screening process of each applicant and adult household member to determine suitability for admission. The screening process shall include a review of pertinent factors including the following:
 - a. *Credit History.* A credit history shall be conducted by the Housing Department regarding the applicant's and adult household member's past performance in meeting financial obligations that shall include, but not limited to, rent and utilities. The Housing Department shall request a report from a consumer credit reporting agency. If an applicant or adult household member has a poor credit report, he must demonstrate consistent ability to pay rent and

utility bills within the past year. The Housing Department shall exclude an application if the applicant or adult household member cannot demonstrate a consistent ability to pay rent and utility bills within the past year. The Housing Department shall request information from former landlords detailing payment history (from up to 5 years ago);

- b. *Previous Eviction from HUD funded home.* The applicant shall be denied services if the applicant was previously evicted for non-payment or non-compliance with any Housing Department, Indian Housing Authority, Tribal or Public Housing Authority policy.
 - c. *Previous abandonment of a HUD funded home.* The applicant shall be denied services if the applicant previously participated in a HUD-assisted program and abandoned the dwelling unit.
 - d. *Past behavior as a tenant.* The applicant shall be denied services if the applicant's past performance and behavior including destruction of property, disturbance of neighbors, poor housekeeping practices, or other activities which may endanger or be detrimental to other residents.
 - e. *Home Visit.* The Housing Department shall make every effort to complete a home visit at the applicant's present residence. If a home visit is not feasible, current references shall be required. The applicant shall be denied services if the applicant currently has poor housekeeping standards which has resulted in an unsanitary living environment.
 - f. *Proof of disability as provided in Chapter 1 of the Housing Commission Regulations and under the Americans with Disabilities Act.*
- 3-3. *Determination of suitability.* In determining whether an applicant and the household members are suitable for admission regarding all of the factors listed in Section 3-2(a)-(e), the Housing Department shall review all of the information gathered in the screening process, taking into consideration the date, nature, and severity of the occurrence in question and the probability of future occurrences. If one household member is determined to be unsuitable, the application is rejected in its entirety, with the exception of Section 3-2(a). The Housing Department shall not provide an option for the applicant to adjust the occupants listed in the application. The applicant has a right to appeal the decision pursuant to Section 3-5.
- 3-4. *Criminal Background Screening.* Once selected and prior to placement in a home, the Housing Department shall conduct a screening process of each applicant and adult household member regarding his criminal background to determine suitability for admission. The screening process shall include a review of pertinent factors including the criminal record particularly focusing on drug-related activities, physically violent crimes, or other criminal acts that may endanger other residents. The Housing Department may wish to request information from law enforcement agencies and the Natural Crime

Information Center. The Housing Department shall not provide an option for the applicant to adjust his occupants listed in the application. In determining whether an applicant is suitable for admission regarding criminal background, the Housing Department shall apply the following provisions and maintain files in accordance with the department's criminal record file maintenance procedures.

a. *Automatic Exclusion.* The Housing Department shall deny an applicant admission to a rental unit if he, she, or any of the applicant's household members listed on the application has been convicted of or entered a plea of guilty or no contest to any offense involving:

1. Criminal Sexual Conduct where the perpetrator is an adult at the time that the crime is committed; or
2. Selling, distributing, or manufacturing any controlled substance located on Schedules 1-5 of MCL 333.7211-333.7220 or the equivalent within the past seven (7) years; or
3. Violent behavior involving murder, assault with intent to do great bodily harm, or stalking within the past twenty-five (25) years; and/or
4. Furnishing alcohol to minors within the past seven (7) years.

b. *Discretionary Exclusion.* The Housing Department shall determine whether to deny an applicant admission to a rental unit if he or any of the applicant's household members listed on the application has been convicted of or entered a plea of guilty or no contest to any misdemeanor or felony offense not listed in section 3-4(a). In making the decision, the Housing Department shall complete a report that takes into account the following factors and considerations:

1. Whether the offense was a felony or misdemeanor/
2. Dates of convictions.
3. Number of similar convictions.
4. Likelihood of recidivism that will take into account factors such as counseling and substance abuse programs.
5. Convictions that impact the health, safety and right to peaceful enjoyment of other tenants.

3-5 *Unsuitability for Any Reason.* If an applicant is determined to be unsuitable for admission for any reason listed in Sections 3-1 to 3-4, a written notice of the determination and the grounds for the determination shall promptly be sent to the applicant. The notice shall advise the applicant(s) of the right to appeal to the Housing

Commission. The request for appeal must be submitted within 15 calendar days of the date the notice was mailed. The Housing Commission shall hold a hearing within 10 days of the request. After the hearing, the Housing Commission shall provide a written decision within 10 days which shall include the findings of facts and decision. This decision may be appealed to Tribal Court.

- 3-6 *Notification of selected applicants.* Promptly after an applicant has completed the screening process and has been determined to be suitable for admission, the family will be notified in writing of their selection. The notification shall include the following:
- a. A statement that the family has been selected for participation in the Little River Housing Department program.
 - b. A statement that the family will be required to participate in mandatory counseling/training sessions prior to occupancy;
 - c. A statement a lease agreement will need to be executed;
 - d. A statement that admission and contract execution is subject to a final income and eligibility verification;
 - e. The address, location, legal description, unit number, or type of services to be received, and amount of assistance;
 - f. A statement that the family has 15 days in which to respond to the notice, either by accepting or rejecting the home offered;
 - g. A statement that failure to respond within 15 days shall be regarded as a rejection of the offer. The date of formal rejection shall be 20 days after the notification of selection;
 - h. A statement that a rejection of the offer shall result in the application being placed at the bottom of the waiting list as it is identified on the formal rejection date; and
 - i. A statement that the notice is not a contract and does not obligate the Housing Department in any way.

Section 4. Adoption; Amendment; Repeal

- 4-1. *Adoption.* This Chapter is approved by the Housing Commission on October 21, 2004 and approved by the Tribal Council on November 3, 2014[,by resolution #04-1103-443].
- 4-2. *Amendment.* This regulation may be amended by the Housing Commission in accordance with the Constitution and any rules set forth governing amendment of regulation of the

Little River Band of Ottawa Indians. Provided that, any amendments must approved or adopted in the same manner as set forth in section 4-1.

- 4-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provision or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.
- 4-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the spirit of this regulation rather than complete compliance is acceptable.
- 4-5. *Sovereign Immunity.* Nothing in this Regulation 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.
- 4-6. *Effective Date.* This Regulation shall take effect upon approval by Tribal Council Resolution #16-1116-352.