

Little River Band of Ottawa Indians

2608 Government Center Drive

Manistee, MI 49660

(231) 723-8288

Resolution #19-1106-286

*Accepting for Filing Gaming Commission Regulation
#R400-04:GC-19 Chapter 19 – Non-Gaming Vendor Licensing*

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 3, 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 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 is authorized under Article IV, Section 7(I) to take action, not inconsistent with the Constitution or Federal law, which is necessary and proper to carry out the sovereign powers of the Tribe; and

WHEREAS, the Tribal Council has, pursuant to Gaming Commission Ordinance #04-400-04, created a Gaming Commission and delegated to such Commission the authority to regulate all gaming activities authorized by the Tribe and to enforce all Tribal and federal laws governing the conduct of Tribally-licensed gaming activities; and

WHEREAS, the Gaming Commission, pursuant to Section 6.04 (a) of the Gaming Commission Ordinance, shall promulgate regulations consistent with the Ordinance and necessary to carry out the orderly performance of its duties and powers; and

WHEREAS, and a recent request for consideration by the gaming enterprise, risk analysis, and evaluation of licensing requirements within multiple regulatory jurisdictions has caused the Gaming Commission to evaluate and revise its licensing requirements for Non-Gaming Vendors; and

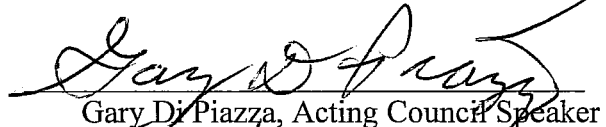
WHEREAS, the Gaming Commission approved the regulation on October 15, 2019 by Gaming Commission Resolution #GC19-1015-19; and

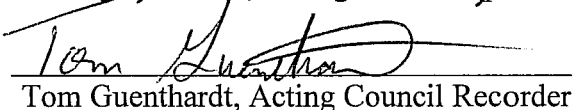
WHEREAS, the Gaming Commission Regulation *Chapter 19 – Non-Gaming Vendor Licensing* is now being forwarded to Tribal Council for filing in accordance with Gaming Commission Ordinance #04-400-04 – Section 6.04 (b).

NOW THEREFORE IT IS RESOLVED THAT that Gaming Commission Regulation #R400-04:GC-19 Chapter 19 – Non-Gaming Vendor Licensing is hereby accepted for filing by the Little River Band of Ottawa Indians Tribal Council.

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 Open Session of the Little River Band of Ottawa Indians Tribal Council held on November 6, 2019, at the Government Center in Manistee, Michigan, with a quorum being present for such vote.


Gary DiPiazza, Acting Council Speaker


Tom Guenthardt, Acting Council Recorder

Attest:

Distribution: Council Records
Gaming Commission

Gaming Commission Regulations
Regulation # R400-04:GC-19

Chapter 19 – Non-Gaming Vendor Licensing

Section 1. Purpose; Authority

- 1-1. *Purpose.* It is the purpose of this Chapter to:
- a. To define the standards and processes to be followed by prospective vendors and the Gaming Commission to make determinations about whether to grant a license to prospective Non-Gaming Vendors of a gaming enterprise in accordance with applicable Federal, State, and Tribal laws; and
 - b. Assist the gaming enterprise and its prospective and current vendors to understand the licensure process that Tribal law imposes upon persons that seek a license to conduct business with any gaming enterprise.
- 1-2. *Authority.* These rules and regulations are issued under and pursuant to the authority of the Gaming Commission Ordinance #04-400-04 and Commission's Ordinance #04-105-01.

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 this Chapter and the Gaming Ordinance and Gaming Commission Ordinance are defined for the purposes of all Gaming Commission Regulations.
- 2-2. “Control Person” means (i) each of its officers and members on the Board of Directors; (ii) each of its principal management employees, including any Chief Executive Officer, Chief Financial Officer, Chief Operating Officer or their respective equivalents, or general managers; (iii) each of its substantial owners who own 30% voting shares of the corporation for a Non-Gaming Vendor; (iv) any person with the authority to contract on behalf of the business with respect to the goods, services, and concessions being provided to any gaming enterprise; and (v) any business which holds 10% or more interest in this company.
- 2-3. “*General Manager*” means the highest-level employee of the gaming enterprise.
- 2-4. “*Non-Gaming Vendor*” means any vendor providing goods, services, and/or concessions to any gaming enterprise, **other than** gaming services or gaming equipment and supplies, in an amount of \$200,000.00 or greater, in any calendar year.

- 2-5. “*Person*” means an individual, a corporation, a partnership, an association, a joint stock company, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.
- 2-6. “*Service Vendors*” means any vendor providing goods, services, and/or concessions to any gaming enterprise, other than gaming services or gaming equipment and supplies, in an amount less than \$200,000.00 in any calendar year.

Section 3. License Required

- 3-1. Every person supplying any goods, services, and/or concessions to any gaming enterprise must obtain a Non-Gaming Vendor License unless exempt from licensing requirements pursuant to Section 3-4 or Section 3-5 or meeting the definition of Service Vendor. Non-Gaming Vendor Licenses (including Control Persons) must be renewed biennially.
- 3-2. The gaming enterprise shall be responsible for notifying any person with which it is considering conducting business with of the licensing requirements prior to contracting with such person.
- 3-3. Prior to the purchase of any goods, services, and/or concessions the gaming enterprise shall forward a written “Notice of Intent to Conduct Business” to the Gaming Commission. The “Notice of Intent to Conduct Business” shall describe the goods, services, and/or concessions to be provided by the vendor, together with a good faith estimate of the annual dollar amount of the projected purchases from the vendor. The gaming enterprise may not commit to any binding contracts or business transactions until the vendor has been licensed by the Gaming Commission.
- 3-4. Exempted Vendors.
 - a. The Gaming Commission, at its sole discretion, may exempt persons (or businesses) from the vendor licensing requirements in certain highly regulated fields. The following are examples:
 - 1. Medical corporations, partnerships or sole proprietorships, or other business entities providing medical related services to the gaming enterprise
 - 2. Insurance companies licensed in any of the 50 U.S. states
 - 3. Attorneys licensed to practice law in any U.S. state, including legal partnerships and legal professional corporation

4. Any lending institution regulated by the federal government or a state government, or any servicer, loan arranger, or placement agent exclusively for such institutions
5. Any public or private institution of education
6. Public utilities regulated by the Michigan Public Service Commission. Local, State and Federal governmental agencies in Michigan, including the U.S. Postal Service
7. Travel industry enterprises licensed by the Interstate Commerce Commission or the Michigan Public Utilities Commission or approved by the Air Traffic Conference or the International Air Transport Association (this exemption does NOT apply to any "junket enterprise" or travel agency used by the gaming enterprise for official business travel)
8. Commercial enterprises licensed or regulated by the Federal Communications Commission such as radio and television stations
9. Any person or entity providing accounting services to the gaming enterprise to the extent that it provides financial related services
10. Any publicly traded United States Corporation under the regulation of the United States Securities and Exchange Commission, or a wholly owned subsidiary of such a corporation
11. Any professional entertainer, sports figure, or other celebrity engaged by the gaming enterprise to appear at a special entertainment or promotional event sponsored by the gaming enterprise. This includes the agent or promoter of a professional entertainer, sports figure, or celebrity

- b. The Gaming Commission may grant special exemptions from the vendor licensing requirements for persons or businesses providing professional services or unique services. Persons or businesses that may qualify for special exemptions are those in the following categories: persons or businesses from which the gaming enterprise purchases advertising (billboard companies, trade magazines and newspapers); advertising agencies providing artistic or creative services; and persons or businesses making isolated (single item/event) sales or purchases of goods or services that do not impact gaming activity.

- 3-5. In both cases listed above in 3-4 (a) and 3-4 (b), the gaming enterprise must submit a request for exemption from the licensing requirements, including documentation supporting the vendor is highly regulated or supporting documentation how the

vendor qualifies for a special exemption. The gaming enterprise shall forward a written "Notice of Intent to Conduct Business" to the Gaming Commission. The "Notice of Intent to Conduct Business" shall describe the goods, services, and/or concessions to be provided by the vendor, together with a good faith estimate of the annual dollar amount of the projected purchases from the vendor.

- 3-6. The gaming enterprise is prohibited from entering into any contract until the vendor has been exempt by the Gaming Commission. Vendors granted an exemption by the Gaming Commission shall be required to provide a completed Conflict of Interest Disclosure in a form satisfactory to the Gaming Commission prior to the commencement of business with the gaming enterprise.

Section 4. License Applications and Fees

Licensing fees will be charged for processing of applications and investigations and shall be payable to the Little River Band of Ottawa Indians.

- 4-1. Initial Application Fees. All vendors providing goods, services, and/or concessions will be charged licensing fees according to the following schedule based on the gaming enterprise's good faith estimate on the Notice of Intent to Conduct Business:

- a. All new vendors providing goods, services, and/or concessions whose annual sales is \$200,000.00 and greater but less than \$250,000.00, will be assessed a license fee of \$1,500.00.
- b. All new vendors providing goods, services, and/or concessions equipment, supplies or services whose annual sales is \$250,000.00 but less than \$350,000.00, will be assessed a license fee of \$2,500.00.
- c. All new vendors providing goods, services, and/or concessions who annual sales is \$350,000.00 or greater will be assessed a license fee of \$4,000.00.
- d. The Gaming Commission reserves the right to require additional fees if the applicant has significant subsidiaries or foreign holdings requiring investigation.

4-2. Renewal Application

- a. All vendors must maintain a valid license unless they qualify for Service Vendor status or are exempt by the Gaming Commission. The gaming enterprise must initiate the renewal process by forwarding a Renewal Notice of Intent to Conduct Business form to the Gaming Commission office at least 120 days prior to license expiration date. Should the vendor be determined by the gaming enterprise to fall within the criteria to be a Service Vendor, the gaming enterprise will submit the Renewal Notice of Intent to Conduct Business identifying such re-classification.

- b. All vendors must complete the required renewal forms by the deadline date given in their license application instruction letter. Failure to submit by the specified deadline date could result in the license expiring and the Gaming Commission issuing an Order to the gaming enterprise to cease conducting business with the vendor. The renewal application fee is \$750.00, regardless of anticipated cost for goods, services, and/or concessions.
- c. All vendors are under a continuing duty to disclose any material changes to the information or documentation provided in or with an application for licensure under Section 5 of this Regulation.
- d. In the event that significant new information is disclosed since the last issuance of a license, the rate may be adjusted based on investigative requirements. This rate will be discussed with the vendor prior to initiation of the investigation.
- e. If any vendor fails to complete the requirements for renewal of its license, or to obtain a temporary license under Section 8 of this Regulation, prior to the expiration of their current license, the Gaming Commission will enter an Order prohibiting the gaming enterprise from conducting business with such vendor until such vendor complies with all licensing requirements.

Section 5. Contents of Application

5-1. *Vendor Application.* Any applicant for a Non-Gaming Vendor license shall furnish to the Gaming Commission the following information:

- a. A list of all goods, services, and/or concessions sold to the gaming enterprise during the prior license period; and
- b. A completed Vendor Corporate Disclosure Application or Vendor Corporate Disclosure Renewal Application for the business; and
- c. A completed Conflict of Interest Disclosure Form; and
- d. A completed Vendor Personal History Disclosure Application or Vendor Personal History Disclosure Renewal Application for each "Control Person" listed on the Vendor Corporate Disclosure Application or Renewal Application.

Section 6. Action on Application for Vendor License

6-1. *Complete Application Required.* A complete investigation will be conducted regarding the information supplied by the applicant(s).

- a. The Gaming Commission will vote on the approval or denial of the license initial application or renewal. The Gaming Commission's licensing eligibility determination shall be based on the information obtained or verified through the investigation process and the eligibility criteria described in Section 7 of this Regulation.
- b. Upon approval of a license, the vendor and the gaming enterprise will be notified.
- c. Upon denial of a license, the vendor and the gaming enterprise will be notified within seven (7) calendar days of the Gaming Commission's decision. The notice to the vendor shall also state the specific grounds for denial, including any criminal conviction(s) prompting the denial, and of the applicant's right to request a hearing before the Gaming Commission.

Section 7. Grounds for Refusal to Issue License

7-1. *Other.* The Gaming Commission shall also satisfy itself that each applicant for a license:

- a. Is a Person whose background, reputation, and association's evidence good character, integrity, and honesty.
- b. Has not knowingly or willfully provided false and misleading statements or information, has knowingly and willfully omitted information on the application or refused to respond to questions asked by the Gaming Commission specifically related to the eligibility to obtain or retain a license.
- c. Has not demonstrated a willful disregard for compliance with any gaming regulatory authority in any jurisdiction or has failed to provide information and/or documentation requested by the Gaming Commission or staff.
- d. Has not pursued or is pursuing economic gain in an occupational manner or context which is in violation of the laws of any state, if such pursuit creates probable cause to believe that the participation of such vendor in gaming related activities or the operations of the gaming enterprise would be detrimental, or perceived as detrimental, to the Little River Band of Ottawa Indians.

Section 8. Temporary License

8-1. The Gaming Commission may, at its discretion, issue a temporary license for up to thirty (30) calendar days to any applicant who sends a written request to the Gaming Commission and who has submitted a completed application and the appropriate

license application fee. The date of issuance of the temporary license shall also be the starting date for the biennial license.

8-2. *Criteria for Approval of Temporary Licenses.* The Gaming Commission may authorize the issuance of a temporary license for applicants for a license under the following circumstances:

- a. The applicant's license has expired or is about to expire and the applicant has submitted the required application fee and completed the renewal application but either:
 1. The background investigation has not been completed; or
 2. The results of the background investigation have not been reviewed by the Background Investigator or designee; or
- b. The applicant has submitted a completed application for an initial license, paid the appropriate license application fee, and it appears that after review of the application that the applicant is likely to qualify for a license.

Section 9. General Rights and Duties of Applicants

9-1. The holder of a license is authorized to sell or lease, and to contract to sell or lease, good, services, and/or concessions to the gaming enterprise during the two (2) years for which the license applies.

9-2. *No Property Interest.* A license issued by the Gaming Commission is a privilege and shall not constitute a property interest under Tribal or Federal law.

9-3. *Responsibility to establish qualifications.* The burden of proving qualifications to receive a license is on the applicant. It shall be the further responsibility and continuing duty of each applicant/licensee to produce such information, documentation, and assurances as may be required to demonstrate by clear and convincing evidence his/her qualifications to hold a license in accordance this Regulation. No license shall be granted to any applicant who fails to prove his/her qualifications.

9-4. *Renewals.* It is the responsibility of holders of a license to ensure that their license is valid at all times. Holders of a license shall file their renewal application no later than sixty (60) calendar days before their license expires, including updating all information contained in the original application. Temporary licenses may be granted upon request by the vendor and in accordance with Section 8-1 of this Regulation. Non-Gaming Vendor Licenses (including Control Persons) must be renewed biennially. A holder of a license who fails to renew their license within the timeframe specified shall be assessed the following fines, unless defined otherwise by Gaming Commission Order:

- a. \$100.00 – first offense
- b. \$200.00 – second offense
- c. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to a vendor who has been assessed a fine until such time that the fine is paid in full.

9-5. *Expired License.* A holder of a license who allows their license to expire shall be assessed the following reinstatement fees, unless defined otherwise by Gaming Commission Order:

- a. \$200.00 – first offense
- b. \$400.00 – second offense
- c. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to a vendor who has been assessed a reinstatement fee until such time that the fee is paid in full. An expired license will result in the Gaming Commission issuing an Order to the vendor and gaming enterprise to cease conducting business.

Section 10. Service Vendor Program

10-1. The General Manager of the gaming enterprise shall be responsible for developing and administering the Service Vendor Program providing for the investigation of all Service Vendors doing business with such gaming enterprise.

10-2. The General Manager of the gaming enterprise shall submit the Service Vendor Program to the Gaming Commission for approval.

10-3. *Contents of Service Vendor Program.* The Service Vendor Program shall include the following elements:

- a. The criteria and scope of investigation proposed for Service Vendors. At a minimum, all Service Vendors shall be required to complete and execute a Conflict of Interest Disclosure Form; and
- b. Standards for exempting any class of Service Vendors or individual Service Vendors from the investigation requirement; and
- c. Fees charged Service Vendors to off-set investigation costs; and

- d. Monthly reporting to the Gaming Commission of management oversight to assure compliance with vendor licensing requirements, including:
 - 1. A current list of approved Service Vendors, including new Service Vendors added since the last reporting period and any Service Vendors removed from the program; and
 - 2. The identity of Service Vendors which the gaming enterprise has refused to do business with or suspended business as a result of investigation findings; and
 - 3. Tracking of year-to-date sales to each approved Service Vendor; and
- e. Provide for advance notice to the Gaming Commission if the gaming enterprise has reason to believe that the sales to the gaming enterprise by a Service Vendor will reach or exceed \$200,000.00 in any calendar year. Such notice shall describe the circumstances warranting the increased volume of business, and, if appropriate under the circumstances, a request for exemption from the licensing requirements. The Gaming Commission may deem it appropriate to exempt a Service Vendor from the licensing requirements if the gaming enterprise demonstrates that following circumstances apply:
 - 1. The amount of goods, services, and/or concession sold in excess of \$200,000.00 in any calendar year is the result of unforeseen or unusual circumstances; and
 - 2. The Gaming Commission determines that the vendor qualifies for exemption from licensing under Section 3-4 of this Regulation.
- f. It shall be the responsibility of the gaming enterprise to notify vendors of licensing requirements.

10-4. The Gaming Commission will conduct periodic reviews and audits of the Service Vendor Program.