



**Little River Band of Ottawa Indians
Tribal Council**

2608 Government Center Drive
Manistee, MI 49660
(231) 723-8288

Resolution #20-0205-041

Adoption of Amendments to the Building Ordinance #02-550-001

WHEREAS, the status of the *Gaá Čhing 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 Tribe are vested in the Tribal Council according to Article IV, Section 1 of the Constitution; and

WHEREAS, the Tribal Council is authorized by Article IV, Section 7(a)(1) and (2) to exercise the inherent powers of the Tribe by establishing laws through the enactment of ordinances and adoption of resolutions to govern the conduct of Tribal Members and others within the Tribe's jurisdiction and to promote, protect and provide for the public health, peace, morals, education and general welfare of the Tribe and its members; and

WHEREAS, the executive powers of the Tribe are vested in the Tribal Ogema according to Article V, Section 1 of the Constitution; and

WHEREAS, the Ogema is authorized by Article V, Section 5(a)(1) to enforce and execute the ordinances, resolutions and motions adopted by the Tribal Council consistent with the Constitution; and

WHEREAS, the Tribal Council adopted the Administrative Procedures Act, which identifies the processes by which ordinances may be adopted, amended or repealed; and

WHEREAS, the Tribal Council wishes to authorize amendments to this Ordinance to clarify permit process by adding definition of ordinary repairs, to allow for approved vendors for inspections, and to fix formatting; and

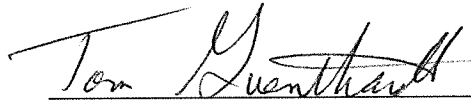
WHEREAS, the Tribal Council posted the proposed amendments for a thirty day public comment period and had a final work session for these amendments on January 20, 2020 to review any comments or issues submitted during the thirty day comment period prior to adopting these amendments permanently; and

WHEREAS, no public comments were submitted for these amendments.

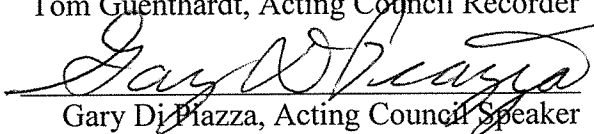
NOW THEREFORE IT IS RESOLVED, that the Tribal Council adopts the amendments to the Building Ordinance # 02-550-001.

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 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on February 5, 2020, at the Little River Band's Government Center in Manistee, Michigan, with a quorum being present for such vote.



Tom Guenthardt, Acting Council Recorder



Gary DiPiazza, Acting Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Legal Department

BUILDING ORDINANCE
Ordinance #02-550-001

Article I. Purpose; Findings

- 1.01. *Purpose.* The purpose of this Ordinance is to govern all aspects of building and remodeling residential and non-residential structures under the jurisdiction of the Little River Band of Ottawa Indians to safeguard life or limb, health and public welfare.
- 1.02. *Findings.* The Tribal Council, in adopting this Ordinance, makes the following findings:
- a. The Tribal Council has the inherent authority and responsibility to enact ordinances to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members;
 - b. The development and adoption of building codes that protect against inferior and dangerous construction and remodeling practices in regards to residential and non-residential construction is in the best interests of both the Tribe and the membership; and
 - c. The development of a consolidated and consistent building code will enhance the quality of residential and non-residential building on Tribal lands.

Article II. Adoption; Amendment; Repeal; Severability

- 2.01. *Adoption.* This ordinance is adopted by resolution #02-0529-04.
- a. Adoption of amendments by Resolution # 18-0314-088, to retitle the Ordinance and in order to include non-residential buildings as well as update standards for buildings on Tribal lands.
 - b. Adopting of amendments by Resolution #20-0205-041, to clarify permit process by adding definition of ordinary repairs, to allow for approved vendors for inspections, and to fix formatting.
- 2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of the laws of the Little River Band of Ottawa Indians.
- 2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act, Ordinance #04-100-07.

2.04. *Severability Clause.* 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. Jurisdiction

3.01. *General.* This Ordinance shall apply to all persons (including natural persons, corporations, limited liability companies, partnerships, unincorporated associations and all other legal entities) who carry out or engage in work regulated by this Ordinance on “Tribal land” as defined in Section 4.15 or “Tribal-member fee land” as defined in Section 4.16.

Article IV. Definitions

4.01. *General.* For purposes of this Ordinance, certain terms are defined in this Section. The word “shall” is always mandatory and not merely advisory.

4.02. *Applicant.* The person, or his/her designee, who is responsible for submitting an application for a Building Permit, and who is responsible for carrying out the requirements of this Ordinance or other implemented regulations.

4.03. *Building.* Any structure, either temporary or permanent, having a roof and used or built for shelter or enclosure of persons or property of any kind.

4.04. *Building Official.* The individual, within the Tribe’s Planning Department, charged with the administration and enforcement of this Ordinance, or other duly authorized representative of that Department.

4.05. *Building Inspector.* The individual employed or retained by the Tribe to perform building, construction or land development inspections as set out in this Ordinance.

4.06. *Building Permit.* A document issued by the Building Official pursuant to the provisions of this Ordinance that allows the Applicant to build, construct, renovate or remove structures on Tribal Land.

4.07. *Certificate of Occupancy.* The form issued by the Building Official that certifies that no violations of the provisions in this Ordinance, implementing regulations, or other applicable policies have been found. The form also certifies that the building may be used and occupied as intended by the application for a Building Permit.

4.08. *International Building Code.* The International Building Code (IBC) is a model building code developed by the International Code Council (ICC). It applies to all commercial and non-residential building structures. A new edition of the International Building Code (IBC)

is promulgated every three years, with the most recent (2015) edition coinciding with the initial approval of this Ordinance. It is the intention of this Ordinance to incorporate and use the latest published version of the International Building Code (IBC) that is published and adopted for use by the State of Michigan.

- 4.09. *International Residential Code.* The International Residential Code (IRC) is also a model building code developed by the International Code Council (ICC). Its use applies to single-family houses, two-family houses (duplexes) and townhouses not more than three stories above grade plane in height. Like the International Building Code, a new edition of the International Residential Code (IRC) is promulgated every three years, with the most recent (2015) edition coinciding with the initial approval of this Ordinance. It is the intention of the Ordinance to incorporate and use the latest published version of the International Residential Code (IRC) that is published and adopted for use by the State of Michigan.
- 4.10. *Michigan Building Code.* The versions of the International Building Code published and adopted for use within the State of Michigan, as amended in the future.
- 4.11. *Michigan Building Code and Michigan Residential Code Definitions.* The definitions contained in Chapter 2 of the latest released versions of the Michigan Building Code and the Michigan Residential Code are incorporated and included in this ordinance to the extent that definitions in this Ordinance do not cause conflict.
- 4.12. *Michigan Residential Code.* The versions of the International Residential Code published and adopted for use within the State of Michigan, as amended in the future.
- 4.13. *Ordinary Repairs.* Ordinary Repairs shall not include:
 - a. Removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements;
 - b. Any change that would impact the travel distance or the time necessary for exiting an area;
 - c. Any change to the fire suppression system; or
 - d. Any construction that exceeds a total of two hundred (200) square feet.
- 4.14. *Tribal Council.* The elected body identified in Article IV of the Constitution of the Little River Band of Ottawa Indians.
- 4.15. *Tribal Land.* For purposes of this Ordinance, Tribal Land is defined as land either owned in fee by the Tribe or held by the United States in trust for the benefit of the Tribe or a Tribal member.

- 4.16. *Tribal Member Fee Land.* For purposes of this Ordinance, Tribal Member Fee Land is defined as any parcel of land located within the Tribe’s territory, as defined in Article I, Section I of the Little River Band of Ottawa Indians Constitution, which is owned “fee simple” by any LRBOI Tribal Member.
- 4.17. *Tribe.* Tribe shall mean The Little River Band of Ottawa Indians.

Article V. Commercial and Non-residential Construction/Remodeling (Exclusions/Exceptions)

- 5.01. *General.* Commercial and non-residential construction shall be governed by the Michigan Building Codes, as amended. The Michigan Building Codes shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.
- 5.02. *Exclusions from Michigan Building Codes.* Little River Band of Ottawa Indians adopts the Michigan Codes as Tribal law with the exception that all questions of jurisdiction and agency authority are replaced by the Little River Band of Ottawa Indians and the bodies described in this Ordinance. This includes but is not limited to references to:
 - a. Michigan Department of Building Safety-referred to as “building official” in Michigan’s Building Codes; and
 - b. Board of Appeals for Department of Building Safety.
- 5.03. *Residential Construction Exception.* Commercial and non-residential construction/remodeling shall not apply Michigan Building Code standards designed to address one-family dwellings, two-family dwellings and multiple-family dwellings (townhouses) not more than three stories in height with separate means of egress and their accessory structures. See Section 6 for projects involving Residential Building Construction/Remodeling.

Article VI. Residential Building Construction/Remodeling

- 6.01. *General.* Residential building construction and remodeling shall be governed by the latest published version of the Michigan Residential Code (MRC) as defined in Section 4.12 of this Ordinance. The Michigan Residential Code shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of single-family houses, two-family houses (duplexes) and townhouses not more than three stories above grade plane in height.

- 6.02. *Exclusions from Michigan Residential Code.* Little River Band of Ottawa Indians adopts the Michigan Codes as Tribal law with the exception that all questions of jurisdiction and agency authority are replaced by the Little River Band of Ottawa Indians and the bodies described in this Ordinance. This includes but is not limited to references to:
- a. Michigan Department of Building Safety-referred to as “building official” in Michigan’s Building Codes; and
 - b. Board of Appeals for Department of Building Safety.

Article VII. Applicability of other Building Codes

- 7.01. *General.* To the extent that the Michigan Building Code and the Michigan Residential Code rely on other building codes, the latest publication of the following codes are hereby adopted and incorporated into this Ordinance.
- a. *International Plumbing Code.* The International Plumbing Code (IPC), published by the International Code Council (ICC), shall apply to the erection, installation, alternation, repair, replacement, relocation, addition to, use or maintenance of plumbing systems.
 - b. *International Mechanical Code.* The International Mechanical Code (IMC), published by the International Code Council (ICC), shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, replacement, relocation, addition to, use or maintenance of mechanical systems.
 - c. *National Electric Code.* The National Electric Code (NEC), published by the National Fire Prevention Association, shall apply to all electric work, including the installation of electrical wiring and equipment.
 - d. *International Energy Conservation Code.* The International Energy Conservation Code (IEEC), published by the International Code Council (ICC), shall regulate the control of energy efficiency of heating and air conditioning in newly constructed buildings.

Article VIII. Role of Planning Department; Building Official; Regulations

- 8.01. *Planning Department.* The Planning Department shall be designated with the authority and responsibility to determine if permits are required, to issue permits or licenses and to approve design plans as set forth in this ordinance. Such actions shall be carried out by the Building Official who shall be an employee located within the Planning Department.

8.02. *Regulations.* The Planning Department will promulgate regulations to implement this Ordinance, including any necessary application forms, permits and certificates. Any newly created or amended regulations must be approved by the Tribal Council prior to implementation.

Article IX. Building Permit Process; Permit Application and Plan Review; Applicable Fees

9.01. *Building Permit Required.* A Building Permit, as defined in this Ordinance, Section 4.06, is required for any Applicant to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure.

9.02. *Exceptions.* Building Permits are not required for ordinary repairs. The Building Official may approve exceptions to permit requirements on a case by case basis. A drawing or sketch of proposed changed may be submitted for review to determine if a building permit is necessary.

9.03. *Permit Application and Plan Review.* An Applicant seeking a Building Permit as prescribed by this Ordinance, must submit a building permit application along with design plans/construction documents that include drawings for all work that is to be done. The number of design plans/construction documents required for the review will be determined by the Planning Department and will be specified in the regulations (Section 8.02) and the Building Permit application. The Planning Department shall review all applications for completeness and accuracy.

9.04. *Fees.* The Planning Department shall establish a fee schedule for the permit application review and the plan review, which will be included as part of the regulations identified in Section 8.02. Provided that all applicable application and plan review fees are paid, once approved, there will be no additional cost for issuing the Building Permit.

9.05. *Waiver of Fees for Tribal Members.* Any Little River Band of Ottawa Indians Member building their own home on Tribal Land or Tribal Member Fee Land, as defined in Section 4 of this Ordinance, will not be required to pay fees for the permit application review and the plan review. In those circumstances, the Building Official is authorized by this Ordinance to approve a waiver of these fees.

9.06. *Building Permit Issued.* Once all requirements are met and applicable fees are paid, the Building Permit will be issued by the Building Official.

9.07. *Permit Posting Requirement.* The Applicant shall post the Building Permit issued pursuant to this Ordinance at a conspicuous location on the development or construction site. The permit shall remain posted until a final inspection has been completed and a Certificate of Occupancy is issued by the Building Official.

Article X. Building Inspections; Applicable Fees

- 10.01. *Building Inspections Required.* When the Applicant receives a Building Permit under this Ordinance, he/she gives consent for reasonable periodic and final inspections to be carried out by the Planning Department. This responsibility may be delegated to a Building Inspector, as defined in Section 4.05. Inspections may also be accepted by from a vendor who has been approved by the Planning Department.
- 10.02. *Types of Building Inspections.* The types and frequency of building inspections for each construction project will be determined by the Planning Department, but should include at a minimum the following: foundation (building) inspection, electrical inspection, plumbing inspection and mechanical inspection. A final inspection must be successfully completed for a Certificate of Occupancy to be issued. It is the responsibility of the Applicant to know which inspections are required and when those inspections should be scheduled.
- 10.03. *Grandfathered Equipment.* The Planning Department may identify equipment grandfathered in under the Ordinance amendments that is exempt from certain inspections. This exemption may be approved provided the equipment maintenance history is verified by the Planning Department. The Planning Department may only grandfather equipment in existence and use at the time of amendments and only for the life of that equipment. All exemptions shall be requested prior to the beginning of a project and shall be at the sole discretion of the Planning Department.
- 10.04. *Inspection Fees.* The Planning Department shall establish a fee schedule for required inspections, which will be included as part of the regulations identified in Section 8.02. All applicable inspection fees must be remitted to the Planning Department before a Certificate of Occupancy will be issued.
- 10.05. *Waiver of Fees for Tribal Members.* Any Little River Band of Ottawa Indians Member building their own home on Tribal Land or Tribal Member Fee Land, as defined in Section 4 of this Ordinance, will not be required to pay inspection fees. In those circumstances, the Building Official is authorized by this Ordinance to approve a waiver of these fees.
- 10.06. *Recording of Completed Inspections.* It is the responsibility of the Applicant to have the Building Inspector, or authorized representative, affix his/her signature to the posted Building Permit after each required inspection is successfully completed. For this purpose, the posted Building Permit will serve as the official record that all required inspections have been successfully completed.

Article XI. Certificate of Occupancy

- 11.01. *Certificate of Occupancy Required.* No building or structure subject to the provisions of this Ordinance shall be used or occupied until the Building Official has issued a Certificate of Occupancy.
- 11.02. *Certificate of Occupancy Issued.* In order for a Certificate of Occupancy to be issued, the Applicant, or his/her designee, will notify the Building Official that all work has been done in accordance with the requirements of the relevant Building Permit. If all conditions and requirements are met, the Building Inspector will perform a final inspection. Upon successful completion of the final inspection, the Certificate of Occupancy will be issued by the Building Official.

Article XII. Appeal Process

- 12.01. *General.* All decisions made under this Ordinance or implemented regulations may be appealed to Tribal Court. Such appeals shall be limited to appellate review.
- 12.02. *Appellate Review, Limitations.* An application for appeal shall be based on a claim that the true intent of this Ordinance or implemented regulations have been incorrectly interpreted, the provisions of this Ordinance or implemented regulations do not fully apply, or an equally good or better form of construction is proposed. The Tribal Court shall have no authority to waive the requirements of this Ordinance.

CERTIFICATION

I, Gary DiPiazza, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Building Ordinance, Ordinance #02-550-01, adopted by Tribal Council on May 29, 2002, and amended on February 5, 2020.



Gary DiPiazza, Tribal Council Recorder

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