



Little River Band of Ottawa Indians
Tribal Council
2608 Government Center Drive
Manistee, MI 49660
(231) 723-8288

Resolution #20-1014-293

Adoption of Amendments to the Gross Gaming Revenue Tax Ordinance #09-100-05

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 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the Administrative Procedures Act, which identifies the processes by which ordinances may be adopted, amended or repealed; and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 creating an exception from tribal tax for online gaming and online sports betting activities; 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 October 6, 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 Gross Gaming Revenue Tax Ordinance # 09-100-05.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on October 14, 2020, via teleconference, with a quorum being present for such vote.



Gary Di Piazza, Tribal Council Recorder



Ronald Pete, Tribal Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Legal Department

GROSS GAMING REVENUE TAX ORDINANCE
Ordinance #09-100-05

Article I. Purpose; Findings

- 1.01. *Purpose.* The purpose of this Ordinance is to institute a tax on the gross gaming revenues of the Tribe's gaming Enterprise, in order to fund the reasonable regulatory costs incurred by the Tribal Gaming Commission and the reasonable fees, expenses and internal overhead costs incurred by the Tribe in overseeing the Enterprise.
- 1.02. *Findings.* The Tribal Council, in adopting this Ordinance, makes the following findings –
- a. The Tribal Council has the delegated authority and responsibility to enact ordinances to protect the general welfare of the Little River Band;
 - b. The Tribal Council and the Tribal Gaming Commission have the responsibility and duty to ensure that the gaming Enterprise is properly regulated and that adequate tribal supervision of the Enterprise exists;
 - c. The Tribal Council desires to ensure that adequate funding exists to fulfill these responsibilities; and
 - d. The Tribal Council has the sovereign authority to enact taxes to fund its governmental operations.

Article II. Adoption; Amendment; Repeal

- 2.01. *Adoption.* This Ordinance is adopted by the Tribal Council by Resolution #01-0425-08.
- a. Resolution #06-0830-602 - Emergency amendments to application of tax revenues in section 6.01.
 - b. Resolution #09-0304-056 - amended to prohibit expenditure of funds until an audit of the Enterprise financials has been completed.
 - c. Resolution #13-1204-367, increasing percentage of tax and allowing for future increases or decreases for limited periods of time by Tribal Council Resolution.
 - d. Resolution #14-0521-152, including a definition for “net win,” deleting certain other definitions and including “capital improvements” as a use for the revenue in Section 6.02(b).
 - e. Resolution #20-1014-293, creating an exception from tribal tax for online gaming and online sports betting activities.
- 2.02. *Amendment.* This Ordinance may be amended from time to time as set forth in the

Constitution or in procedures adopted by the Tribal Council.

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

- 3.01. For purposes of this Ordinance, certain terms are defined in this Section. The word “shall” is always mandatory and not merely advisory.
- 3.02. “Compact” shall mean the gaming compact between the Tribe and the State of Michigan, dated as of December 3, 1998 and all amendments, entered into pursuant to Section 11(d)(3) of IGRA, as the same may from time to time be in effect.
- 3.03. “Enterprise” shall mean the Little River Band of Ottawa Indians Casino Resort and any other gaming enterprise-established by the Tribe to engage in gaming.
- 3.04. “Gaming” shall mean any and all activities constituting class II or class III gaming (as defined in IGRA) which the Tribe is authorized to conduct under the Compact.
- 3.05. “Generally Accepted Accounting Principles” or “GAAP” shall mean generally accepted accounting principles as applied within the United States.
- 3.06. “Gross Gaming Revenue Tax” shall mean the tax instituted and imposed by this Ordinance.
- 3.07. “Gross Gaming Revenue (Win)” shall mean the net win from gaming activities conducted by the Enterprise which is the difference between gaming wins and losses before deducting costs and expenses, determined in accordance with GAAP consistently applied.
- 3.08. “IGRA” shall mean the Indian Gaming Regulatory Act of 1988, PL 100-497, 25 U.S.C. s.2701 et seq., as same may from time to time be amended.
- 3.09. “Net Win” means the total wagered on each electronic game of chance, minus the total amount paid to players for winning wagers at such machines.
- 3.10. “Regulatory costs” shall mean any and all costs associated with regulatory activities

conducted by the Tribal Gaming Commission and/or Regulatory Agency.

- 3.11. “Tribal Gaming Commission” and/or “Regulatory Agency” shall mean the Little River Band of Ottawa Indians Gaming Commission created pursuant to the Tribal Gaming Ordinance to regulate Gaming of the Tribe in accordance with the Compact, IGRA and the Tribal Gaming Ordinance.
- 3.12. “Tribal Gaming Ordinance” shall mean the ordinance enacted by the Tribe, which authorizes and regulates Gaming on lands subject to the governmental power of the Tribe, as the same may be amended from time to time.

Article IV. Administration.

- 4.01. *Records and Record Keeping.* The Enterprise shall retain all records necessary for the administration of the taxes imposed under this Ordinance for a period of at least three years from the date such taxes were paid to the Tribe. All of such records are subject to audit by the Tribe.

Article V. Gross Gaming Revenue Tax.

- 5.01. *Imposition of Tax.* A tax is imposed on the Gross Gaming Revenue (Win) of the Enterprise in the amount of three and three-quarters percent (3.75%) of such Gross Gaming Revenue (Win) generated as a result of Gaming conducted at any Tribal Gaming Facility.
- 5.02. *Collection and Payment of Tax.* The tax imposed by section 5.01 hereof shall be payable monthly in arrears, no later than twenty days after the end of each month. The Enterprise shall deliver to the Tribe a certificate signed by an officer stating the amount of the tax and showing how such amount was computed.
- 5.03. *Admission of Tax.* The tax imposed by this Ordinance shall be administered by the Tribal Ogema in conjunction with Tribal Council. The Tribal Ogema may promulgate rules to administer this Ordinance and may prescribe the form of certificate to be filed at the time the tax is paid by a Gaming Enterprise subject to this tax.
- 5.04. *Increases/Decreases of Tax Rate.* The Tribal Council is expressly authorized to increase or decrease the amount of the Gross Gaming Revenue (Win) tax for limited periods of time when deemed necessary to protect the health, safety or welfare of the Tribe. Any increases or decreases shall only be effective upon adoption of a Resolution that clearly identifies the circumstances requiring the rate change.
- 5.05. *Exceptions to Tax.* The tax imposed by this Ordinance shall not be administered for those revenues generated from online gaming and online sports betting as long as no regulatory

cost is incurred by the Tribe's Gaming Commission.

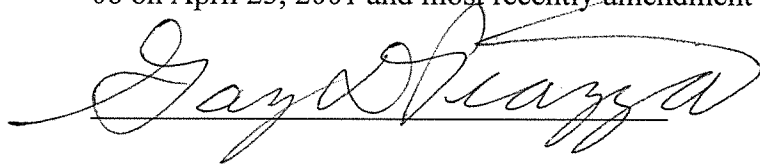
- 5.06. *Effective Date.* This Ordinance shall be effective immediately upon adoption by Tribal Council Resolution.

Article VI. Use of Gross Gaming Revenue Tax Proceeds.

- 6.01. Use of Proceeds. Proceeds from the gross gaming revenue tax shall be used for the following purposes and in the priority set forth in this section:
- a. To fund all regulatory costs incurred by the Tribal Gaming Commission ("Regulatory Agency").
 - b. To fund capital improvements as authorized by Tribal Council Resolution.
 - c. Unexpended prior year funds shall be utilized solely for the purpose of funding general welfare program costs in accordance with the following:
 - i. Funds shall not be expended until an audit of the Enterprise financials has been completed.
 - ii. A reconciliation between amounts budgeted at the governmental level and funds certified through the Enterprise audit shall be completed to identify whether excess funding is available or a decrease in funding is necessary.
 - iii. The Tribal Accounting Department shall present the reconciliation along with suggested budget modifications to the Ogema for review.
 - iv. The Ogema shall present to the Tribal Council any budget modifications necessary to reconcile the current fiscal year budget for approval by Resolution.
- 6.02. *Deposit of Tax Revenues.* All tax revenues received under this Ordinance shall be deposited by the Tribal Ogema to the credit of the general fund and shall be disbursed only in accordance with the Budget and Appropriations Act of 2013, Ordinance #13-100-04, as amended, for the purposes described in section 6.01.
- 6.03. *Penalties.* Failure to pay any tax revenues required by this Ordinance in a timely manner shall result in a \$5000.00 penalty assessed on a daily basis.

CERTIFICATION

I, Gary DiPiazza, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Gross Gaming Revenue Tax Ordinance adopted by the Tribal Council Resolution #01-0425-08 on April 25, 2001 and most recently amendment by Tribal Council Resolution #20-1014-293.



[Seal]

