



Little River Band of Ottawa Indians

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Resolution No. #99-0325- 0 (

**Recodifying the Tribal Gaming Ordinance,
Ordinance No. 97-400-01, with Certain Amendments
and Authorizing the Tribal Ogema, or in his absence, the
Tribal Council Speaker to Submit Those Amendments to
the National Indian Gaming Commission for Approval**

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.)(hereinafter "Little River Act"); and

WHEREAS, the Tribe is entitled to the protections and benefits accorded federally-recognized Indian tribes under federal law, including those under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. §2701 et seq.)(hereinafter "IGRA"), which permits Indian tribes to operate Class II gaming activities on lands held in trust for the Tribe; and

WHEREAS, the Tribe has determined that the establishment and operation of a tribal gaming enterprise under the IGRA will assist the Tribe generate the revenues needed to establish an effective tribal government, provide necessary employment opportunities services for tribal members and promote tribal self-sufficiency; 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 Tribal Council, pursuant to Article IV, Section 7 of the Constitution of the Little River Band of Ottawa Indians ("Tribal Constitution"), is authorized to enact ordinances to promote, protect and provide for public health, peace, morals, education and general welfare of the Tribe and its members and to manage the economic affairs and fiscal affairs of the Tribe; and

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WHEREAS, IGRA requires that tribes proposing to engage in Class II or Class III gaming adopt a Gaming Ordinance and that such Gaming Ordinance must be approved by the Chairman of the National Indian Gaming Commission; and

WHEREAS, the Tribe has previously submitted its Gaming Ordinance, Ordinance No. #97-400-01, to the National Indian Gaming Commission and that Ordinance was approved by the Commission on January 25, 1997; and

WHEREAS, the Tribal Council believes that certain corrections and minor substantive revisions should be made to the Tribal Gaming Ordinance to clarify certain matters identified by the Tribal Gaming Commission, to conform to the requirements of the Tribal Constitution approved July 10, 1998, and to correct typographical errors contained in the Ordinance approved by the National Indian Gaming Commission; and

WHEREAS, amendments to the Tribe's Gaming Ordinance must be submitted to the Chairman of the National Indian Gaming Commission for his approval; and

WHEREAS, the Tribal Council wishes to recodify the Tribal Gaming Ordinance to conform to the format utilized for other recently approved ordinances; and

WHEREAS, the Tribal Gaming Commission concurs in the amendments proposed in the draft revisions dated March 16, 1999; and

WHEREAS, the Tribal Council has reviewed the proposed amendments to the Gaming Ordinance and expressly finds that such amendments meet the requirements of IGRA and the Tribal-State Compact, and will permit the Tribe to effectively regulate gaming activity within the jurisdiction of the Tribe to ensure the integrity of such gaming.

NOW THEREFORE IT IS RESOLVED that the Tribal Council of the Little River Band of Ottawa Indians hereby recodifies and amends the Little River Band of Ottawa Indians Gaming Ordinance, Ordinance Number 97-400-01, which establishes the purposes, powers, and duties of the Gaming Commission and other provisions to comprehensively and preemptively regulate the terms and conditions under which Class II and Class III gaming, as defined in IGRA, may be conducted on the Tribe's Reservation.

IT IS FURTHER RESOLVED that the Tribal Council hereby authorizes and directs the Tribal Ogema, or in his absence, the Tribal Council Speaker, to submit the recodified and amended Ordinance Number 97-400-01 to the National Indian Gaming Commission for approval of such amendments in accordance with IGRA and regulations promulgated thereunder. A "clean" copy of such amended Ordinance, together with a "redlined" copy delineating the amendments to such Ordinance in bold type shall be provided to the National Indian Gaming Commission.

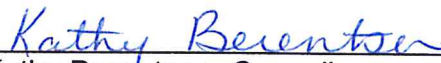
Certificate of Adoption

This resolution was adopted by the Tribal Council of the Little River Band of Ottawa Indians at its Regular Meeting held in Manistee, Michigan at the Little River Community Center on March 25, 1999 by a vote of 7 in favor, 1 opposed, 1 absent and 0 abstentions. A quorum of the Tribal Council being present for such vote.

Date: 3/25/99


Charles Fisher, Council Recorder

Attest:


Kathy Berentsen, Councilor

made within sixty (60) days of the date of execution of the Management Agreement.

(b) *Terms of Office.* ~~The members of the Gaming Commission shall be appointed to serve for three (3) year terms; Provided that the terms of office for the initial appointees shall be staggered, with two (2) members appointed for a term of one (1) year, two (2) members appointed for a term of two (2) years, and one member appointed for a term of three (3) years.~~ **All subsequent appointments to the Gaming Commission shall be for terms of four (4) years.** Members may be reappointed for additional terms without limitation.

(c) *Future Appointments.* At least four (4) weeks prior to any meeting during which appointments to the Gaming Commission will be made, the Tribal Council **Ogema** shall publicize that ~~he/she~~ it will be making such **nominations** for appointments and shall seek applicants for appointment and nominations of individuals to be appointed.

4.03. *Qualifications of Commissioners.* Any enrolled member of the Tribe, at least twenty-one years of age or older who is not an elected member of the Tribal Council or the Tribal Ogema who is qualified to serve as a Commissioner under Subsections 4.04 and 4.05 of this Section may be appointed to serve on the Gaming Commission. Each newly appointed Commissioner must attend training on the Indian Gaming Regulatory Act, regulations promulgated by the National Indian Gaming Commission, federal revenue laws relating to gaming, this Gaming Ordinance and any Regulations adopted by the Gaming Commission.

4.04. *Background Investigation.* Before any applicant may be appointed to serve on the Gaming Commission, the Tribal Council shall perform or arrange to have performed a comprehensive background check on each prospective member. No person shall serve as a Commissioner if:

- (a) That person's prior activities, criminal records, if any, or reputation, habits or associations:
 - (i) Pose a threat to the public interest; or
 - (ii) Threaten the effective regulation and control of gaming; or
 - (iii) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming; or

(b) That person has been convicted of or entered a plea of nolo contendere to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

(c) That person has a present financial interest in the conduct of any Gaming Enterprise; or

(d) That person has a member of his immediate family, residing in the same household, who is employed as a key employee by any Gaming Enterprise regulated by the Gaming Commission.

4.05. *Conflict of Interest.* No person shall serve as a Commissioner if that person or any member of his immediate family has a financial interest in any management contract to which the Tribe is a party or that person or any member of his immediate family is a key employee of or has a financial interest in any Gaming Service business, or if s/he has any other similar personal or legal relationship which creates a conflict of interest. No person shall serve as a Commissioner if that person is a member of the Tribal Council or a judge of the Tribal Court.

4.06. *Oath of Office.* Immediately upon appointment, the Tribal Chairperson or Ogema shall administer the oath of office to the members of the Gaming Commission which oath of office shall include a commitment to uphold the Constitution and laws of the Little River Band of Ottawa Indians and to perform faithfully and diligently the duties and responsibilities of the Gaming Commission.

4.07. *Removal of Members or Vacancies.*

(a) *Removal.* A Commissioner may be removed by a resolution in favor of removal supported by ~~seven~~ **five (7)** members of the Tribal Council for the following reasons: serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty and integrity of the Gaming Commission or otherwise violates the letter or intent of this ordinance. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council, and then only after the Commissioner has been given written notice of the specific charges at least ten (10) days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses and documentary evidence on his behalf. At the request of the Commissioner whose removal is at issue, the hearing may be held in closed session. The Tribal Council may also elect to receive certain evidence in closed session if public disclosure of such evidence might compromise any ongoing law enforcement investigation. If ~~five~~ **four (5)** members of the Tribal Council determines that immediate removal of a Commissioner is necessary to protect the interests of

the Tribe, the Tribal Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to the hearing procedures described above. At the conclusion of the presentation of evidence and of any summary statements, the Tribal Council shall deliberate in closed session and shall issue its decision within seven (7) days. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal **Council Recorder Secretary**. The decision of the Tribal Council to remove a Commissioner shall be final and no appeal to any other tribunal shall be available.

(b) *Vacancies*. If any Commissioner shall die, resign, be removed or for any reason be unable to serve as a Commissioner, the Council shall declare the position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this ordinance.

Section 5. Organization; Meetings of the Gaming Commission.

5.01. Meetings.

(a) *Regular Meetings*. The Gaming Commission shall hold at least one regular monthly meeting which shall take place at a suitable time and place determined by the Gaming Commission.

(b) *Special meetings*. Special meetings may be called at the request of the Chairman of the Gaming Commission or three (3) members of the Gaming Commission.

(c) *Compensation of Commissioners*. Any honorarium may be paid for attendance at each meeting or hearing date.

(d) *Quorum*. A quorum for all meetings or hearings shall consist of **three** ~~four~~ (3) members.

(e) *Voting*. All questions arising in connection with the action of the Gaming Commission shall be decided by ~~majority~~ **an affirmative vote of at least three (3) of the five (5) Commissioners provided a quorum is present** ; **Provided that action on licensing of all Gaming Employees may be decided by majority vote provided a quorum is present.**

(p) To establish and maintain such bank accounts as may be necessary or convenient.

(q) To make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Gaming Commission.

(r) To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this ordinance as permitted by the purposes and powers herein stated, which are deemed to be in the best interests of the Tribe and in compliance with applicable law.

(s) Pursuant to the Tribal law, to initiate a suspension or revocation proceeding of a liquor license issued to a gaming establishment.

6.02. *Additional Powers and Duties.*

(a) The Gaming Commission shall require the Manager of each Gaming Facility licensed by the Tribe to prepare a plan for the protection of public safety and the physical security of patrons of Gaming Facilities, setting forth the respective responsibilities of the Gaming Commission, the security department of the Gaming Facility(ies), and any Tribal police agency(ies). Such plan, and any subsequent modifications thereof, shall be submitted to the Gaming Commission annually for its review and approval.

(b) The Gaming Commission shall enforce all Tribal health and safety standards applicable to Gaming Facilities licensed by the Tribe.

(c) The Gaming Commission shall establish a list of persons barred from Tribal gaming facilities because of their criminal history or association with career offenders or career offender organizations which pose a threat to the integrity of gaming.

(d) The Gaming Commission shall publish and distribute copies of this Ordinance, Gaming Commission rules, and any Council, Gaming Commission or Tribal Court decisions regarding gaming matters.

(e) The Gaming Commission shall maintain and keep current a record of new developments in the area of Indian gaming.

(f) The Gaming Commission shall obtain and publish a summary of federal revenue laws relating to gaming and to ensure compliance with the same.

(g) The Gaming Commission shall arrange for training of Gaming Commissioners, Gaming Commission employees and others in areas relating to the regulation of gaming.

(h) The Gaming Commission shall consult with and make recommendations to the Council regarding changes in tribal gaming laws.

6.03. *Annual Budget.* The Gaming Commission shall prepare an annual operating budget for all Gaming Commission activities and present it to the **Tribal Ogema and the Tribal Council** in accordance with budget and appropriation procedures established by the Tribe's Constitution and by the Tribal Council.

6.04. *Gaming Commission Regulations.*

(a) Gaming Commission regulations consistent with this Ordinance and necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to the following:

(1) Internal operational procedures of the Gaming Commission and its staff;

(2) Interpretation and application of this Ordinance as may be necessary to carry out the Gaming Commission's duties and exercise its powers;

(3) A regulatory system for all gaming activity, including accounting, contracting, and surveillance, to ensure the integrity, honesty and fairness of all gaming activities;

(4) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Gaming Commission authorized by this Ordinance.

(b) No regulation of the Gaming Commission shall be of any force or effect unless it is adopted by the Gaming Commission by written resolution and filed for record in the office of the Tribal **Council Recorder** ~~Secretary~~.

(c) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Gaming Commission regulations adopted pursuant to and consistent with this Ordinance.

6.05. *Right of Entrance: Monthly Inspection.* The Gaming Commission and duly authorized officers and employees of the Gaming Commission, during regular business hours, may enter upon any premises of any Gaming Enterprise for the purpose of making inspections

Section 11. Gaming Facility Licenses.

11.01. *License Required.* No person shall conduct Class II or Class III Gaming within the jurisdiction of the Tribe unless such Gaming is conducted at a Gaming Facility licensed by the Tribe. No license may be issued for any Gaming Facility which is owned or operated by any person other than the Tribe. **If Gaming activity is proposed in more than one building at the site of any Gaming Enterprise,** A separate Gaming Facility license shall be required for each **Facility building** or location where Class II or Class III Gaming is conducted under this ordinance.

11.02. *Types of Licenses.* The Tribe may issue each of the following types of Gaming Facility Licenses.

- (a) *Tribally-Owned or Tribally-Operated Class II.* This License shall be required of all tribally-owned or tribally operated Gaming Facilities operating one or more Class II Gaming activities.
- (b) *Tribally-Owned or Tribally-Operated Class III.* This License shall be required for all tribally-owned or operated Gaming Facilities operating any gaming other than Class I or Class II gaming.

11.03. *Gaming Facility Application Procedures.* In order to obtain a Gaming Facility License, the Enterprise requesting such license shall submit an application on the form provided by the Tribal Gaming Commission. The applicant shall include all of the following information:

- (a) A description of the Gaming activity proposed, including, but not limited to: the type of Gaming proposed, the maximum number and types of Gaming Equipment and Gaming Devices expected to be in the Facility at any one time, the number and types of Gaming Equipment and Gaming Devices expected to be in use when the Facility first opens, and the days and hours of operation proposed.
- (b) A description of the Gaming Facility proposed, including the layout of the Gaming Equipment and Gaming Devices and the surveillance systems the Gaming Facility.
- (c) The location proposed for such Gaming Facility.
- (d) A description of the security, police, fire protection and other public safety services to be available to the proposed Gaming Facility and patrons of such Facility.

- (m) For all applications for licenses for Management Contractors and each Principal thereof, ~~or Primary Management Officials or Key Employees~~, a complete financial statement and/or income tax records showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the application;
- (n) A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and the name, address and phone number of the regulatory agency involved.
- (o) A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship.
- (p) Written permission giving the Tribal Gaming Commission or its designee the right to investigate the applicant's background, including his criminal records, civil and criminal judgments and credit history.
- (q) Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed.
- (r) Any other information the Tribe deems relevant;
- (s) **For all applications for licenses for Management Contractors and each Principal thereof, Primary Management Officials or Key Employees**, fingerprints obtained in duplicate on fingerprint impression cards taken by the Manistee City Police Department or the Tribal Gaming Commission consistent with procedures adopted by the Tribe according to 25 C.F.R. §522.2 (h);
- (t) Any other information required Tribal Gaming Commission rule or regulation.

13.02. *Application Forms - Notices.*

- (a) *Privacy Act Notice.* The following notice shall be placed on the application form for a management contractor, key employee or a primary management official before that form is filled out by an applicant:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this

(b) The criminal background of each applicant for a license shall be investigated submitting vital information concerning the applicant **to the Michigan State Police and/or local law enforcement and, for Management Contractors, Primary Management Officials and Key Employees, submitting** impressions of the applicant's fingerprints, taken under paragraph (s) of subsection 13.01, ~~to the Michigan State Police and/or local law enforcement agencies and~~ to the Federal Bureau of Investigation Criminal Information Center, and any other law enforcement agency(ies) that the Tribal Gaming Commission deems appropriate, requesting a criminal history report. The vital information provided to such law enforcement agencies shall include, at a minimum: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, drivers license numbers, social security number, and a physical description.

(c) With respect to applicants for a Management Contractors **or** Primary Management Officials ~~or Key Employees'~~ license, the Gaming Commission shall also investigate and verify the accuracy of financial information provided by the applicant by contacting banks, other financial institutions or other sources as deemed necessary. The Tribal Gaming Commission shall also obtain a credit bureau report on the applicant.

(d) The Tribal Gaming Commission shall attempt to complete the background investigation described in this subsection within 30 days following receipt of a complete application.

(e) The Gaming Commission may contract with a private, municipal, state, and/or federal investigation agencies to perform the required background and/or criminal history investigations.

13.05. *Eligibility Determination.* The Tribal Gaming Commission shall review a person's or entity's prior activities, criminal records, if any, reputation, habits, and associations to make a finding concerning the eligibility of a key employee or primary management official or other individual or entity listed above for employment in or association with a Gaming Enterprise. If the Tribal Gaming Commission determines that employment of or contract with the person or entity poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Tribal Gaming Enterprise shall not employ or contract with that person or entity in a key employee or primary management official position, or as an employee, nor as a management contractor nor supplier of gaming goods or services.

13.06. *Standards for Issuance of Key Employee or Primary Management Officials' License.* The Tribal Gaming Commission shall not grant a license to any applicant for employment as a Key Employee or Primary Management Official who: