



Little River Band of Ottawa Indians

PO Box 314

Manistee MI 49660-0314

(616) 723-8288

RESOLUTION NO. #99-0422-04

**Amending the Law and Order Ordinance Provisions
Regarding Accused Person's Right to Counsel and Publication**

WHEREAS, the Little River Band of Ottawa Indians is a federally recognized tribe, as reaffirmed under P.L. 103-324, enacted on September 21, 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 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

WHEREAS, the Tribe's Law and Order Ordinance, Ordinance No. 98-400-03, was enacted on March 25, 1997, which Ordinance adopts and applies Subpart C (Criminal Procedure) of 25 Code of Federal Regulations Part 11; and

WHEREAS, the criminal procedure provisions of Subpart C require appointment of counsel for accused persons who are indigent, which right is not mandated by the Tribal Constitution; and

WHEREAS, the Tribal Attorney and Judges of the Tribal Court have recommended amending the Law and Order Ordinance with regard to the right of accused persons to appointed counsel and the publication of the Law and Order Ordinance; and

WHEREAS, the Tribal Council supports the recommended amendments to the Law and Order Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council of the Little River Band of Ottawa Indians hereby amends Ordinance No. 98-400-03, entitled the Law and Order Ordinance, as adopted by the Tribal Council on March 25, 1999, in the following manner:

A new Section 1.06, entitled "Accused Person's Right to Counsel" is added to read as follows:

In accordance with Article III, Section 1(f) of the Tribal Constitution, and notwithstanding the provisions of Section 11.303(c), *Notification of Rights Prior to Custodial Interrogation*, and Section 11.309(c)(2), *Arraignments*, any person accused of an offense under this Ordinance may represent himself before the Tribal Court, or may be represented, at his/her own expense, by a person duly licensed to practice before the Tribal Court. Persons shall be informed of these rights prior to any custodial interrogation and/or at such person's arraignment conducted pursuant to this Ordinance.

Former Section 1.06 and all succeeding Sections shall be renumbered as a result of the addition of this new Section 1.06.

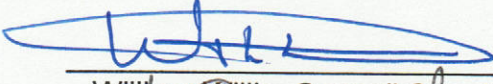
Section 1.08 of the Ordinance, formerly Section 1.07, shall be amended to add and delete certain language to read as follows:

1.08. Publication of this Ordinance. The terms of this Ordinance, together with ~~the~~ a **summary** of the provisions of 25 C.F.R. Part 11, Subpart C and Subpart D, shall be published in the Tribal Newsletter and **the terms of this Ordinance, together with the provisions of 25 C.F.R. Part 11, Subpart C and Subpart D in their entirety, shall be** posted at all Tribal Offices and buildings.

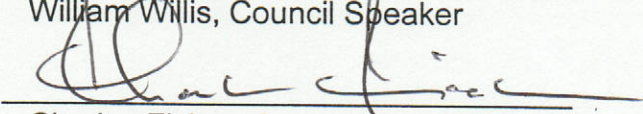
Certificate of Adoption

This resolution was adopted by the Tribal Council of the Little River Band of Ottawa Indians at its Regular Session held at the Little River Community Center on April 22, 1999 by a vote of 8 in favor, 0 opposed, 1 absent, and 0 abstentions, a quorum being present for such vote.

Date: 4/22/99


William Willis, Council Speaker

Attest:


Charles Fisher, Council Recorder



Little River Band of Ottawa Indians

PO Box 314
Manistee MI 49660-0314
(616) 723-8288

MEMORANDUM

TO: TRIBAL COUNCIL

FROM: BILL BROOKS

RE: AMENDMENTS TO LAW AND ORDER ORDINANCE.

ATTACHED IS A PROPOSED AMENDMENT TO ADDRESS THE APPOINTMENT OF COUNSEL ISSUE DISCUSSED YESTERDAY.

ALSO INCLUDED IS AN AMENDMENT TO REDUCE THE AMOUNT OF MATERIAL REQUIRED TO BE PUBLISHED IN THE NEWSLETTER. I HAVE DISCUSSED WITH JAY SAM THE POSSIBILITY OF HAVING THE ORDINANCE, A SUMMARY OF THE CRIMINAL PROCEDURES (INCLUDING "RIGHT TO COUNSEL") AND A LISTING OF THE OFFENSES DEFINED. PUBLISHING THE ENTIRE ORDINANCE WILL SIMPLY REQUIRE TOO MUCH PRINT SPACE.

IF YOU PLAN ANY SPECIAL MEETINGS BETWEEN SUNDAY AND THE 9TH OF MAY, THESE AMENDMENTS COULD BE INCLUDED.



Little River Band of Ottawa Indians

PO Box 314
Manistee MI 49660-0314
(616) 723-8288

**TRIBAL COUNCIL
LITTLE RIVER BAND OF OTTAWA INDIANS**

**LAW AND ORDER ORDINANCE
ORDINANCE NO. 98- 400-03**

Section 1. General Provisions.

1.01. *Title.* This Ordinance shall be known as the "Little River Band of Ottawa Indians Law and Order Ordinance."

1.02. *Purpose.* The purpose of this Ordinance is to provide adequate provision for administration of justice within the territorial jurisdiction of the Little River Band of Ottawa Indians Reservation where the Tribe retains jurisdiction over Indians that is exclusive of state jurisdiction but where the Tribe has not yet developed its own body of law to exercise that jurisdiction. For purposes of the enforcement of the law and order regulations adopted in this ordinance, an "Indian" is defined as a person who is a member of an Indian tribe which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs, and any other individual who is an "Indian" for purposes of 18 U.S.C. 1152-53.

1.03. *Legislative Findings.* The Little River Band of Ottawa Indians Tribal Council hereby finds as follows:

a. The Tribal Council has the authority to adopt this Ordinance pursuant to the powers vested in it by Article IV, Section 7 of the Constitution, approved on July 10, 1998.

b. The regulation, control and prohibition of certain activities and conduct on the Tribe's Reservation is necessary to protect the health, security and general

Law and Order Ordinance
Enacted 3/25/99
Amended 4/22/99

SERVING KENT, LAKE, MANISTEE, MASON, MUSKEGON, OCEANA
OTTAWA, NEWAYGO AND WEXFORD COUNTIES
FAX (616) 723-8020

welfare of the Tribe, its members, the general public and property on the Tribe's Reservation.

c. The enactment of this Ordinance is an exercise of the inherent sovereign powers of the Tribe.

1.04. *Incorporation of Code of Federal Regulations, 25 C.F.R. Part 11, Subparts C and D by Reference.*

a. The Tribe hereby adopts and applies as tribal law the Subpart C (Criminal Procedure) and Subpart D (Criminal Offenses) of the Code of Federal Regulations, 25 C.F.R. Part 11, providing for Law and Order on Indian Reservations.

b. In the event any provision of this ordinance is in conflict with the substantive provisions of the Code of Federal Regulations' Law and Order Code provisions adopted and applied pursuant to this Ordinance, the terms of this Ordinance shall govern.

c. Nothing in this Ordinance shall be construed as a consent by the Tribe to the jurisdiction of any Courts of Indian Offenses established under the Code of Federal Regulations over any activity arising under or related to the subject of this Ordinance nor shall anything in this Ordinance constitute an express or implied waiver of the sovereign immunity of the Tribe.

1.05. *C.F.R. Law and Order Code Superseded by Subsequent Legislative Action of the Tribal Council; Amendments.* The procedures and regulations established in this Ordinance shall continue to apply to the Little River Band's Reservation until Tribal-specific law and order ordinance is adopted, which by its specific terms, is intended to supersede the provisions of this Ordinance. The Tribe may, by amendment to this Ordinance, prohibit or regulate other activities and conduct by defining additional criminal offenses.

1.06. *Accused Person's Right to Counsel.* In accordance with Article III, Section 1(f) of the Tribal Constitution, and notwithstanding the provisions of Section 11.303(c), Notification of Rights Prior to Custodial Interrogation, and Section 11.309(c)(2), Arraignments, any person accused of an offense under this Ordinance may represent himself before the Tribal Court, or may be represented, at his/her own expense, by a person duly licensed to practice before the Tribal Court. Persons shall be informed of these rights prior to any custodial

Law and Order Ordinance
Enacted 3/25/99
Amended 4/22/99

SERVING KENT, LAKE, MANISTEE, MASON, MUSKEGON, OCEANA
OTTAWA, NEWAYGO AND WEXFORD COUNTIES
FAX (616) 723-8020

interrogation and/or at such person's arraignment conducted pursuant to this Ordinance.

1.07. *Criminal Jurisdiction; limitation of actions.*

a. *Criminal Jurisdiction.* The Tribal Court of the Little River Band of Ottawa Indians shall have jurisdiction over any action by an Indian, as defined in this Ordinance, that is made a criminal offense under this Ordinance and that occurred within the territorial jurisdiction of the Tribe, as defined in the Tribe's Constitution.

b. *Limitation of Actions.* Except as otherwise provided in this Ordinance, no person shall be prosecuted, tried or punished for any offense unless the complaint is filed within five (5) years after the offense was committed.

1.08. *Publication of this Ordinance.* The terms of this Ordinance, together with the a **summary of** the provisions of 25 C.F.R. Part 11, Subpart C and Subpart D, shall be published in the Tribal Newsletter and **the terms of this Ordinance, together with the provisions of 25 C.F.R. Part 11, Subpart C and Subpart D in their entirety, shall be** posted at all Tribal Offices and buildings.

1.09. *Severability Clause.* In the event any provision of this Ordinance shall be found or declared to be invalid by a court of competent jurisdiction, all of the remaining provisions of this Ordinance shall be unaffected and shall remain in full force and effect.

1.10. *Effective Date.* This Law and Order Ordinance shall be effective from the date of enactment.

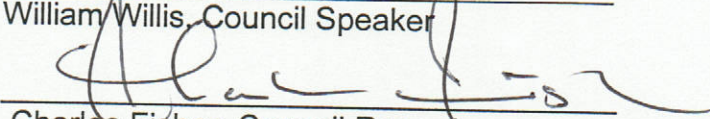
CERTIFICATE OF ADOPTION

This Ordinance was adopted by the Tribal Council of the Little River Band of Ottawa Indians at its regular meeting held on March 25, 1999, in Manistee, Michigan at the Little River Community Center by a vote of 8 in favor, 0 opposed, 1 absent, and 0 abstentions. A quorum of the Tribal Council being present for such vote.

Date: 4/22/99


William Willis, Council Speaker

Attest:


Charles Fisher, Council Recorder

Law and Order Ordinance
Enacted 3/25/99
Amended 4/22/99

SERVING KENT, LAKE, MANISTEE, MASON, MUSKEGON, OCEANA
OTTAWA, NEWAYGO AND WEXFORD COUNTIES
FAX (616) 723-8020