

**LITTLE RIVER BAND OF OTTAWA INDIANS
INTERNET GAMING REVENUE DISTRIBUTION ORDINANCE
Ordinance # 25-XXX-XX**

Article I. Purpose; Findings

- 1.01. *Purpose.* The Little River Band of Ottawa Indians (“Tribe”) has determined that it is in the best interests of its members to establish this ordinance to govern the allocation of monies received from its online gaming enterprise to ensure these funds are used to promote the general welfare of Tribal Members.
- 1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds:
- a. That the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the authority to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.] *Article IV, Section 7(a).*
 - b. That the Constitution of the Little River Band of Ottawa Indians further delegates to the Tribal Council the authority to manage any funds within the exclusive control of the Little River Band[.] *Article IV, Section 7(I)(2).*
 - c. That the monies received from the Tribe’s internet gaming activities, operated in partnership with Rush Street Interactive MI, LLC, are not currently being used in the best interest of the Band’s Members.
 - d. That implementing a plan to govern the allocation of revenue received from the online gaming enterprise is in the best interests of the Tribe.

Article II. Adoption; Amendment

- 2.01. *Adoption.* This Ordinance is adopted by Resolution # 25-XXX-XX
- 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 laws of the Little River Band of Ottawa Indians.

Article III. Definitions

- 3.01. *General.* For purposes of this Ordinance, certain terms are defined in this Article. The word "shall" is always mandatory and not merely advisory. The terms defined in this ordinance only apply to this ordinance.
- 3.02. *Class* as used in this Ordinance means the heirs of a Qualified Tribal Member divided by generations beginning with the children of the deceased in the following order of priority, if there are no surviving children, the surviving siblings; if there are no surviving children or siblings, the surviving grandparents, aunts and uncles, and cousins and in the absence of any surviving children, surviving siblings or surviving

grandparents, aunts, uncles, and cousins, then to the Tribe. Taken together the different groupings are the *Classes* of heirs.

- 3.03. *Constitution* means the constitution of the Little River Band of Ottawa Indians adopted on May 27, 1989, and approved by the Secretary of the Interior on July 10, 1998, and all subsequent amendments thereto.
- 3.04. *Fiscal Year* means a twelve (12) month period designated by the Tribal Council which is used for the purpose of setting a budget as established by resolution or tribal law.
- 3.05. *Internet* means the international computer network of interoperable packet switched data networks, inclusive of such additional technological platforms as mobile, satellite, and other electronic distribution channels.
- 3.06. *Internet game* means a game of skill or chance that is offered for play through the internet in which an individual wagers money or something of monetary value for the opportunity to win money or something of monetary value. Internet game includes gaming tournaments conducted via the internet in which individuals compete against one another in 1 or more of the games authorized by the board or in approved variations or composites as authorized by the board.
- 3.07. *Internet gaming* means operating, conducting, or offering to play an internet game.
- 3.08. *Internet Gaming Operator* means the individual or entity which provides the technology necessary to host and offer the Internet Games offered for play on the internet to customers of the online casino offered under the Tribe's name.
- 3.09. *Internet Gaming Per Capita Distribution* means the distribution of money or other things of value to all members of the Tribe, or to identified groups of members, which is paid directly from the *Internet Gaming Revenue* as that term is defined in Section 3.10 below. This definition does not apply to tribal revenues which have been set aside by the tribe for bona fide programs for which the participants have met the programs eligibility criteria, such as programs to promote the general welfare of tribal members.
- 3.10. *Internet Gaming Revenue* means the gross revenues derived from the offering of Class II and/or Class III games by the Tribe's Internet Gaming Operator in compliance with the provisions of the Michigan Lawful Internet Gaming Act and transferred to the Tribe under the Agreement between the Tribe and Rush Street Interactive MI, LLC, executed on March 27, 2020.
- 3.11. *Next of kin* shall mean, in the following order of priority, any surviving children, the surviving siblings, grandparents, aunts and uncles, and cousins and in the absence of any surviving children, surviving siblings or surviving grandparents, then to the Tribe.

- 3.12. *Ogema* means the chief executive of the Little River Band of Ottawa Indians as described in Article V, § 1 *et seq* of the Constitution of the Little River Band of Ottawa Indians.
- 3.13. *Program* means a subdivision of the Tribal government operations located within the Executive Branch that offers services or benefits at or below cost.
- 3.14. *Qualified Tribal Member* shall mean, solely for the purposes of *Internet Gaming Per Capita Distributions*, those individuals who are:
- (a) alive; and
 - (b) duly enrolled in the Little River Band of Ottawa Indians pursuant to Article II of the *Constitution*.
- 3.15. *Real Money Online Player*
- (a) Shall mean, solely for the purposes of the *Internet Gaming Revenue Distribution Ordinance*, each patron or player who (i) visits the Online Casino, including, but not limited to, via hyperlinks from the Enterprise's website and other marketing initiatives; (ii) provides all registration information required by Supplier, (iii) successfully opens an account through the online Casino; (iv) successfully makes a deposit in such account and (v) places a wager through such account.
 - (b) Shall not mean a patron or player who visits the *Sportsbook and opens an account whether online or in person*.
- 3.16. *Tribe* means the Little River Band of Ottawa Indians.
- 3.17. *Tribal Council* means the legislative body of the Tribe as described in Article IV, § 1 *et seq* of the *Constitution*.

Article IV. Use of Internet Gaming Revenues: to Tribal Member General Welfare Programs

- 4.01. **Allocation.** The Tribal Council hereby allocates 50% percent of the Internet Gaming Revenues to Tribal Member General Welfare programs which support the General Welfare of Tribal Members.
- (a) If it deems it necessary, the Tribal Council shall have the authority to revise, decrease, and/or increase the percentage allocation of Internet Gaming Revenues to the purposes stated above or to add additional allocations.

- (b) Any net gaming revenues allocated for the purpose of funding member general welfare programs that have not been expended as of the last date of the fiscal year shall be reallocated as follows:

- (i) Investment: 100%

4.02 Supported General Welfare Programs.

- (a) The uses of net internet gaming revenue allocated under this section shall include, but shall not be limited to, the following: utility assistance programs, funeral assistance programs, tribal housing assistance programs, higher education programs, elder services programs, health services, and food distribution programs.
- (b) Funds allocated under this ordinance shall be placed into a restricted fund until either (i) six months have passed since the funds were deposited into the restricted fund, or (ii) the Tribal Council has received accurate financial statements for the preceding year showing the total amount of Internet Gaming revenue being transferred from the Internet Gaming Operator, on a monthly and quarterly basis, whichever shall be shorter. All accrued interest shall be incorporated into the fund corpus and allocated to support the General Welfare programs.

Article V. Use of net Internet Gaming Revenues: Individual Internet Gaming Per Capita Distributions

- 5.01 Allocation.** The Tribal Council hereby allocates 50% percent of the Internet Gaming Revenues to individual Internet Per Capita Distributions.

- (a) If it deems it necessary, the Tribal Council shall have the authority to decrease and increase the percentage of Internet Gaming Revenues allocated to Individual Internet Gaming Per Capita Distributions.
- (b) Any net internet gaming revenues allocated for the purpose of funding Internet Gaming Per Capita Distributions that have not been expended as of the last date of the fiscal year shall be reallocated into a separate restricted fund in a low-risk interest bearing account at the highest interest rate commercially available with a federally insured financial institution to be distributed to the Members as an additional per capita payment once every two (2) years.

- 5.02 Distribution Schedule.** Per capita distributions to qualified tribal members shall be made on the first day of each fiscal quarter. This payment schedule may be amended by a subsequent Resolution adopted by the Tribal Council at any time.

5.03 **Per Capita Distribution Eligibility.**

- (a) **Eligibility Criteria.** In order to be eligible to receive an Internet Gaming Per Capita Distribution an individual must be a “qualified tribal member” as that term is defined in Paragraph 3.14 of this document.

5.04 **Deposit of Designated Per Capita Funds.** All net Internet Gaming Revenues designated for disbursement as per capita distributions shall be deposited, when received by the Tribe from the Internet Gaming Operator, into a low-risk interest bearing account at the highest interest rate commercially available with a federally insured financial institution prior to distribution. These funds shall be kept in a restricted fund and all accrued interest shall remain in the fund and incorporated into the fund corpus for the payment of future distributions.

5.05 **Minors Per Capital Payments**

- (a) In order to provide for the future prosperity and well-being of the minor children of the Tribe, the Tribal Council shall contribute the per capita benefits for minor Qualified Tribal Members into one or more trusts in low-risk interest bearing accounts into federally insured financial institutions it finds satisfactory at the highest interest rate available with income earned on the principal to be accumulated in the trust for future distribution to the minor Qualified Tribal Members.
- (b) A minor Qualified Tribal Member means an individual who is a Qualified Tribal Member as defined in Paragraph 3.14 above who has not reached eighteen (18) years of age. A minor child shall be eligible to receive per capita payments under this Ordinance in the same manner as any other adult Qualified Tribal Member that is distributed to Tribal Members thirty (30) days after their eighteenth (18th) birthday.
- (c) Prior to the time the minor beneficiary reaches the age of eighteen (18), the Tribal Court may make distributions from the trust or trusts to the parents or legal guardians of a minor beneficiary to assist with emergency expenses incurred on behalf of the beneficiary or to provide for the minor’s health, education, or welfare. The petitioning parent or legal guardian shall submit receipts to the Tribal Court for all expenditures made on behalf of the minor beneficiary from any funds disbursed.
- (d) In cases of abuse or misuse, the Tribal Court shall require the parent or legal guardian to enter into a plan to repay the funds distributed on behalf of the minor beneficiary from the trust or trusts.

- (e) If a minor child dies before reaching the age of majority, any funds then held in trust on behalf of the minor shall be distributed according to the minor's will, if any. In the absence of a will, the funds shall be given to the beneficiary designated by the minor on a form developed by the Tribe for this purpose, ("Beneficiary") or, if no beneficiary has been so designated, the custodial parent shall be assumed to be the beneficiary. In the absence of a custodial parent the beneficiary shall be the next of kin as defined in Section 3.10 above. If more than one next of kin exists in the same Class, they shall share equally in any distribution. If a next of kin in one group exists, the heirs in the subsequent Classes shall not receive from the deceased minor's trust. All distributions into the Trust shall cease as of the minor's death and the funds held on their behalf shall be disbursed to the Beneficiary within ninety (90) days.

5.06 Legally Incompetent Persons.

- (a) The Tribal Council shall place into one or more trusts in low-risk interest bearing accounts into federally insured financial institutions it finds satisfactory, at the highest interest rate available, the per capita distributions, or any portion or percentage thereof, of any individual who is declared legally incompetent by a court of competent jurisdiction or a licensed medical doctor with knowledge of the individual makes a clear determination of incompetency based upon the available medical evidence.
- (b) The Membership Assistance Attorney shall approve disbursements from a legally incompetent person's trust to that individual's legal guardian for the purposes of providing for the individual's health, education, or welfare if the following criteria are satisfied:
 - (i) The person requesting the withdrawal of monies on behalf of a legally incompetent person is the legal guardian of the legally incompetent person in question, and,
 - (ii) The money will be used to meet the health, safety, welfare, or educational needs of the legally incompetent person.
- (c) A legally incompetent person's Internet Gaming per capita distributions shall not be released if that individual's legal guardian fails to demonstrate to the satisfaction of the Membership Assistance Attorney that the above criteria have been met.
- (d) The Membership Assistance Attorney shall require that the petitioning guardian submit receipts documenting the expenditures made with funds released in accordance with§ 5.05(b), & (c). Failure of the legal guardian to provide the

required documentation may result in future requests by the legal guardian for release of funds to be denied. The establishment of a regular monthly allowance for any individual declared legally incompetent from the proceeds of any per capita distribution placed into trust under this section shall be at the discretion of the Tribal Court or the Membership Assistance Attorney.

- 5.07 **Retroactive Per Capita Distributions.** No person shall be entitled to any retroactive payment of per capital distribution.
- 5.08 **Federal Tax.** The Ogema, or an agent appointed by the Ogema, shall ensure that notification is sent to recipients of per capita distributions that such distributions are subject to federal taxation. The Qualified Tribal Member shall designate in writing whether they wish for taxes to be automatically deducted from the distribution.
- 5.09 **Attachment or Garnishment of Per Capita Distributions.** Per capita distributions may be withheld to satisfy any court ordered judgment obtained by the Tribe against the qualified tribal member or to satisfy court ordered child support obligations. Any amount remaining after satisfaction of the court ordered judgment or child support obligation shall be distributed to the qualified tribal member in accordance with the provisions of this Ordinance.
- 5.10 **Method of Distribution.** The method of distribution shall be by check or direct deposit to the qualified tribal member's bank account. The qualified tribal member must designate, in writing, how they would like to receive their per capita distribution. Under no circumstances shall the Tribe or any official thereof be entitled to change the method of distribution from that specified by the tribal member. Failure to adhere to the method specified may be challenged pursuant to Article VI hereof. If no designation is made, the per capita distribution shall be distributed by check and mailed to the address of record on file for the qualified tribal member.

Article VI. Dispute Resolution

- (a) The sole venue for any and all disputes arising out of or related to this Ordinance, or the implementation thereof shall be the Tribal Court of the Little River Band of Ottawa Indians.
- (b) In any decision related to or arising from this Ordinance, the remedies available from the Tribal Court shall be limited to injunctive relief, specific performance, or a monetary award. Any monetary award shall be limited to the actual dollar amount of the distribution or distributions in question.

Article VII. Amendment or Repeal

- 7.01 **Amendment.** This ordinance may be amended in whole or in part by a subsequent Resolution of the Tribal Council. A Resolution of the Tribal Council shall be the only means of amending this Ordinance.

7.02 **Repeal.** This Ordinance shall only be repealed by a subsequent Resolution of the Tribal Council.

7.03 **Secretarial Approval.** This Ordinance is not subject to Secretarial approval and a copy does not need to be provided to the Secretary of the Interior until and unless it is determined that the Internet Gaming contemplated by this Ordinance is governed by the Indian Gaming Regulatory Act.

Article VIII. Severability

Any provision of this Ordinance which is determined to be illegal by a court of competent jurisdiction or an administrative body having jurisdiction over this Ordinance, or which is otherwise determined to be unenforceable, shall be ineffective to the extent necessary without invalidating the remaining provisions of this Ordinance. This Ordinance will be construed as if the illegal provision is not contained in the Ordinance and this Ordinance will be deemed modified to the extent necessary to render enforceable the remaining provisions of this Ordinance.

Article IX. No Waiver of Sovereign Immunity

Nothing in this Ordinance is intended to nor shall it be construed as waiving the sovereign immunity of the Little River Band of Ottawa Indians or the sovereign immunity of any of its governmental officers' and/or agents'.

CERTIFICATION

I, Pam Johnson, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Internet Gaming Revenue Distribution Ordinance permanently adopted by the Tribal Council on

[Seal]