Tribal Council Meeting Procedures Ordinance
Ordinance #06-100-02

Article I. Authority and Purpose

1.01. *Authority.* Authority for this Ordinance is Article IV, Section 6(e) and Section 7(g) of the Tribal Constitution, approved by a vote of the membership on May 27, 1998 and approved by the Assistant Secretary-Indian Affairs on July 10, 1998.

1.02. *Purpose.* The purpose of this Ordinance is to establish procedures governing the conduct of meetings of the Tribal Council, to give definitions to terms used in the Tribal Constitution relating to the implementation of legislative powers vested with the Tribal Council, and to clarify those procedures for the Tribal membership in order to facilitate member participation in the legislative and policy-making process.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is re-authorized and adopted by resolution #04-0922-379.

a. Original Adoption- January 10, 2001.

b. Amended - by Resolution #04-0519-208.

c. Amended - by Resolution #05-0504-183.

d. Amended- by Resolution #05-1012-510 regarding emergency amendments to adopt Article IX.

e. Permanent Amendments - Resolution #06-0113-06.

f. Amended by Resolution #08-0625-188.

g. Amended by Resolution #12-0222-045, to allow for videotaping of Tribal Council official Open Session Public Meetings.

h. Amended by Resolution #16-0928-276, to fix grammatical errors, typos and address changes to names of departments/buildings; to clarify the definition of majority vote; and to create a procedure for pro tempore Speaker and Recorder in order to address the business needs of Tribal Council.

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.

2.03. *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.

2.04. *Substantial Compliance.* In cases of disputes as to compliance with this Ordinance, substantial compliance, rather than complete compliance with this Ordinance shall be deemed adequate.

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. "*Ad Hoc Committee*" means a committee authorized by the Tribal Council for a special or singular purpose that dissolves upon completion of the purpose for which it was established.

3.03. "*Call of Meeting*" means the action taken by the person or persons who is (are) properly authorized to bring an official meeting of the Tribal Council into existence.

3.04. "*Closed Session*" means that portion of a meeting, which is closed to the public to address personnel, business matters, or legal matters pursuant to Article IV, Section 6(d) of the Constitution.

3.05. "*Tribal Council*" means the nine (9) person body described in Article IV of the Constitution.

3.06. "*Council Officers*" means the Council Speaker and the Council Recorder.

3.07. "*Directive*" means a request of the Tribal Council to the Ogema, or subdivision, to present a report on a matter before the Tribal Council.

3.08. "*Council Districts*" shall mean the three (3) Districts, consisting of the At-Large District, the "Nine County District" and the "Tribal District," from which the nine (9) seats on the Tribal Council are elected.

3.09. "*Elders*" shall mean those members of the Tribe who are fifty-five (55) years of age or older.

3.10. "*Legal matters*" means all matters of the Tribe wherein the Tribe is, or may be, a party, either directly or indirectly, to a legal proceeding in federal, state, or Tribal court or an administrative forum addressing a matter to which the attorney-client privilege attaches; a matter wherein the Tribe is considering acting in its legal capacity as a party; e.g., purchase of land. Legal matters may be discussed by the Tribal Council in closed session pursuant to Article IV, Section 6(d) of the Tribal Constitution.

3.11. "*Legislative Matter*" means any action under consideration by the Tribal Council which involves the drafting, review or passage or an ordinance or the promulgation of policies or rules applicable to the Tribal government or any subdivision of the Tribal government.

3.12. "*Majority vote*" means a vote of a majority of the Tribal Council on a motion, ordinance, or resolution under consideration by the Tribal Council at an official meeting of the Tribal Council, where quorum is present.

3. 13. "*Meeting*" means a prearranged gathering of the Tribal Council, properly noticed and held in accordance with a properly executed resolution or call of meeting for the purpose of deliberating on public business of the Tribe.

3.14. "*Tribal Member*" shall mean a person who is duly enrolled in the Little River Band of Ottawa Indians.

3.15. "*Motion*" means a request and proposal for action, made by one (1) Tribal Councilor and seconded by another Tribal Councilor.

3.16. "*Notice of Meeting*" means the official posting of the date, time, and place for a future meeting of the Tribal Council. A Notice or Meeting for any Special or Emergency Meeting shall also include the agenda for such Tribal Council meeting.

3.17. "*Ordinance*" means a Tribal law duly enacted by the Tribal Council.

3.18. "*Personnel Matter*" means those issues dealing with Tribal personnel that may be discussed in closed session pursuant to Article IV, Section 6(d) of the Constitution .

3.19. "*Quorum*" means the necessary minimum number of Tribal Councilors required to be present in order for official business to take place pursuant to Article IV, Section 6(f)(1) of the Constitution.

3.20. "*Record*" means the approved Agenda for a Tribal Council meeting, the approved, written minutes summarizing the discussion/debate on matters considered at Tribal Council meetings, all documents submitted in connection with any agenda item considered by Tribal Council, as well as any resolution(s), ordinances approved by the Tribal Council.

3.21. "*Tribal Council Recorder*" means the Tribal Councilor nominated and appointed by fellow Tribal Councilors to maintain the minutes and records of the Tribal Council, publish the Notice of Meetings, and other duties pursuant to Article IV, Section 5(b) of the Constitution.

3.22. "*Registered Voters*" shall mean any Tribal member, who is at least 18 years old and eligible to vote in Tribal elections pursuant to any requirements prescribed by the Election Board.

3.23. "*Resolution*" means an official action of the Tribal Council, which is a document that can stand alone as a representation of the Tribal Council's actions, and generally contains Whereas, Resolves and a certification.

3.24. "*Roll call*" means to call each Tribal Councilor by name requesting their vote off aye, nay, or abstain. The order of the roll call shall be randomly ordered before each vote, and random lists may be generated prior to any meeting.

3.25. "*Tribal Council Speaker*" means the Tribal Councilor nominated and appointed by fellow Tribal Councilors to preside at all meetings or the Tribal Council, performs the duties of the Ogema in the absence of the Ogema , and other duties pursuant to Article IV, Section 5(a) of the Constitution.

3.26. "*Ogema/Ogema-kwe*" means the chief executive officer of the Tribe elected by majority vote of the Registered Voters of the Tribe or appointed by the Tribal Council pursuant to Article X, Section 4(a) of the Constitution.

3.27. "*Tribal Councilor*" means a person elected to the Tribal Council by the voters of one of the Council Districts or a person nominated and appointed to fill a vacancy on the Tribal Council pursuant to Article X, Section 4(a) of the Constitution.

3.28. "*Waiver of Notice*" means the act of intentionally relinquishing or abandoning the notice requirement for purposes of a Special or Emergency Meeting defined in Article IV, Section 6(b)(2) and Section 6(c) of the Constitution. Tribal Council members waiving the notice requirement for any meeting must do so expressly on the record at the Tribal Council meeting to which such waiver applies.

Article IV. Classification of Tribal Council Meetings

4.01. *Regular Meetings*. Those meetings of the Tribal Council, held at least monthly, at which official business is transacted in accordance with Article IV, Section 6(a) of the Constitution which shall be identified as regular meetings.

4.02. *Emergency Meetings*. Meetings of the Tribal Council, called pursuant to Article IV, Section 6(c) of the Constitution, to take official action(s) deemed necessary for the preservation or protection of the health, welfare, peace, safety or property of the Tribe.

4.03. *Special Meetings*. Meetings of the Tribal Council, called pursuant to Article IV, Section 6(b) of the Constitution, for the purpose of transacting official business of the Tribe, which is not a regular or emergency meeting

4.04. *Work Sessions*. Meetings of the Tribal Council, called for the purpose of reviewing, discussing, and receiving public comment or other matters on a matter under consideration by the Tribal Council. Work sessions are not official meetings of the Tribal Council and no quorum is required.

Article V. Tribal Council Meetings: Authority to Call; Scheduling; Notice Requirement

5.01. *Regular Council Meetings*.

a. *Set by Resolution*. The date, time and location for all regular meetings of the Tribal Council shall be set by resolution of the Tribal Council at the last regular meeting of each calendar year.

b. *Publication*. The schedule of regular meetings shall be published on a quarterly basis and shall be posted at Little River Band Government Center; Little River Band Community Center; Little River Tribal Offices; Little River Band Justice Center and Little River Band Health Center.

c. *Change in Meeting Schedule*. No change may be made in the date or time for any regular meeting except by resolution of the Tribal Council. Notice of any changes in the meeting schedule shall be published and posted at Little River Band Government Center; Little River Band Community Center; Little River Tribal Offices; Little River Band Health Center; and Little River Band Justice Center. The Tribal Council may change the location

for a regular meeting, if circumstances reasonably require, provided notice of the change is posted at the scheduled meeting location and at the tribal government offices. Notice of changes to meeting schedules must be made:

1. Weekly meetings. 24 hours prior to the weekly meeting.

2. Monthly meeting. 15 days prior to the monthly meeting.

5.02. *Special Council Meetings.*

a. *Authority to Call.* A special meeting of the Tribal Council may be called by the following persons:

1. the Ogema;

2. the Tribal Council Speaker;

3. Two (2) or more Council members;

4. Ten percent (l0%) of the Elders;

5. Ten percent (10%) of the registered voters of the Tribe.

b. *Ogema, Tribal Council Speaker, Tribal Council: Written Request Required.* The Ogema, Tribal Council Speaker, or Tribal Councilors may call a special meeting by submitting a written request for a special meeting to the Tribal Council Recorder. Such request must be executed by the person(s) authorized to call a special meeting, include a description of item(s) to be considered at such special meeting, the action requested (i.e. approval by motion or resolution), together with the date and time such request was submitted to the Council Recorder.

c. *Elders or Registered Voters: Written Petition Required.* Elders and registered voters of the Tribe may call a special meeting by submitting a petition containing the signatures, names and addresses of the required number of persons. Such petition must include a description of the item(s) to be considered at such special meeting, the action requested, together with the date and time such petition was submitted to the Tribal Council Recorder. Upon receipt of a petition requesting a special meeting, the Tribal Council Recorder shall submit such petition to the Election Board to verify the validity of the signatures of the members signing the petition and that the requisite number of signatures are contained on that petition.

d. *Scheduling*. The date, time, place, for all special meetings of the Tribal Council shall be scheduled by the Tribal Council Recorder following receipt of a written request or written petition. The agenda shall be forwarded as required in the Constitution.

e. *Publication*. The date, time and place for each special meeting, together with a description of each item of business to be transacted or discussed at such meeting shall be posted at Little River Band Government Center; Little River Band Community Center; Little River Tribal Offices; Little River Band Health Center; and Little River Band Justice Center. If more than one action is required in connection with a single topic requested for discussion and action at special session, the notice of meeting published shall specify each action as a separate item. Agenda items shall be described with sufficient specificity so as to provide tribal members with reasonable notice of the issue and the form of action requested.

f. *Notice of Meeting*. The notice of meeting described in paragraph (b) shall be mailed to each Tribal Councilor at his/her designated mailing address and posted no less than seventy-two (72) hours before the date and time set for such meeting. Efforts shall also be made to provide each Tribal Council or with any documentation pertaining to the business item(s) to be considered at any special meeting.

g. *Forms*. The Tribal Council shall develop such forms as may be necessary to implement this section and shall make such forms available to tribal members.

5.03. *Work Sessions; Scheduling*. Work sessions are scheduled by the Tribal Council on an as-needed basis to permit detailed discussion of ordinances, policies, or other matters under consideration and, if appropriate, to obtain public comment/input concerning such matters.

5.04. *Emergency Meetings*.

a. *Authority to Call*. An emergency meeting of the Tribal Council may be called by the following persons:

1. the Ogema; or

2. the Tribal Council Speaker.

b. *Procedure*. The Ogema or the Tribal Council Speaker may call an emergency meeting by submitting a written request for an emergency meeting to the Tribal Council Recorder. Such request must be executed by the person authorized to call an emergency meeting, include a description of item(s) to be considered at such emergency meeting, the need for emergency action, the action requested (i.e. approval by motion or resolution), together with the date and time such request was submitted to the Tribal Council Recorder.

c. *Scheduling*. An emergency meeting of the Tribal Council shall be scheduled by the Tribal Council Recorder upon receipt of a verified call of emergency meeting executed by the Tribal Council Speaker or by the Ogema.

d. *Notice*. The date, time, place and agenda for each emergency meeting shall be posted at Little River Band Government Center; Little River Band Community Center; Little River Tribal Offices; Little River Band Health Center; and Little River Band Justice Center. The record for each emergency meeting shall contain a statement from the Tribal Council Recorder of all efforts made to provide each Tribal Councilor with notice of such meeting.

Article VI. Election of Tribal Council Speaker Pro Tempore and Tribal Council Recorder Pro Tempore

6.01. *General*. Tribal Council acknowledges the need for a procedure to elect a Speaker/Recorder pro tempore in the event that the Tribal Council Speaker and Tribal Council Recorder are unable to attend a Regular Meeting of the Tribal Council.

6.02. *Purpose*. This measure will be limited to conducting Tribal Council business as described in Article IV, Section 5(a)(1),(3) and Section 5(b)(1) of the Constitution.

6.03. *Procedure for pro tempore election.* Tribal Council shall use the following procedure when the Tribal Council Speaker and Recorder are absent:

a. In the event that Tribal Council has advanced notice of the absence of both officers, Tribal Council may elect officers pro tempore by motion and roll call vote.

b. If no motion is in place to address the absence of the officers at the time meeting:

1. Any Tribal Councilor may call the meeting to order.

2. The Tribal Councilor that calls the meeting to order will announce the necessity to elect a Tribal Council Speaker and Recorder pro tempore.

3. The vote for both officers will occur immediately. Any Councilor may nominate themselves and a majority vote is required to serve.

4. The Tribal Council Speaker pro tempore will preside over the remainder of the meeting.

6.04. A single Council member may not hold both Officer pro tempore positions.

6.05. *Absence of the Tribal Council Speaker only.* In the event that the Tribal Council Speaker is absent, Article IV, Section 5(b)(4) of the Constitution shall be followed. The procedures outlined in Section 6.03 may be followed to elect a Tribal Council Recorder pro tempore.

Article VII. Conduct of Tribal Council Meetings

7.01. *Setting the Agenda for Regular Meetings.*

a. *Agenda Requests.* Any Tribal Councilor, the Ogema, the Election Board, the Tribal Court, or a Tribal member, may request consideration and action by the Tribal Council by completing an agenda request form and submitting such form to the Tribal Council Recorder. Agenda requests should include the following supporting information:

1. a description of the issue (including any supporting documentation);

2. whether any action (motion, resolution, ordinance) is requested;

3. the need for such action;

4. the Tribal Council's authority for such action;

5. whether the action requested is addressed by existing policies or ordinances;

6. how any decision would be implemented; and, the persons who would be responsible for implementing any decision.

b. *Agenda Request Forms.* The Tribal Council shall develop any forms necessary to implement this section and shall notify tribal members and employees of the availability of such forms and the procedures by which an item may be placed on the Tribal Council agenda for discussion and/or action.

c. *Submission in Advance of Meeting.* Requests for an item of business to be placed on the agenda for a Tribal Council meeting must be submitted at least eight (8) calendar days in advance of that meeting.

d. *Agenda Subject to Change.* The meeting notice and proposed agenda posted shall include a statement that the agenda is not official until adopted by Tribal Council. The agenda, once approved by the Tribal Council Recorder, shall be posted to the Tribe's website as early as possible prior to the meeting, with the following language clearly identified on the posted agenda: "This agenda is subject change upon adoption or by amendment by vote of the Tribal Council after adoption."

e. *Additions to the Agenda*. No additional items may be added to the agenda, except by majority vote of the Tribal Council.

f. *Carry-over Agenda*. Any item placed on the Tribal Council agenda, which is not approved or disapproved, or removed by roll call vote, tabled by roll call vote, or postponed by roll call vote, is considered to be removed from that meeting's agenda. At the conclusion of a meeting, any item not removed from the table is removed from the agenda. Removal from the agenda as a result of this subsection is not prohibited from being brought before the Tribal Council at a subsequent meeting; all such items must have a new agenda request and will be placed under new business.

7.02. *Agenda for Special Meetings*. The agenda items for all special meetings shall be limited to those specific items included on the special meeting notice published in accordance with Section 5.02.

7.03. *Procedure for Taking Action on Agenda Items*.

a. Each item on the agenda will be introduced by the Tribal Council Speaker. The Tribal Council Speaker will summarize the item, as described on the agenda request; describe any supporting documentation submitted with the request, and the person/entity submitting the request.

b. Following introduction of the agenda item, the Tribal Council Speaker may ask the individual or a representative of the entity that submitted the request to provide a brief overview of the item.

c. At the conclusion of the presentation of the agenda item, the Tribal Council Speaker will open the item up for discussion or questions from the Tribal Council. The Tribal Council Speaker will ask the other members of the Tribal Council if any of them are going to abstain from voting on the agenda item; Tribal Council members who plan to abstain shall not be permitted to engage in deliberations regarding the agenda item. Members of the Tribal Council wishing to ask questions during presentation of an agenda item must first be recognized by the Tribal Council Speaker. Tribal Council members will be permitted to ask the presenter questions; state his/her position, or make other statements concerning the agenda item.

d. After giving Tribal Councilors the opportunity to ask questions or make statements concerning the agenda item, the Tribal Council Speaker will open the matter to the floor for questions/discussions from tribal members.

e. At the conclusion or public comment, the Tribal Council Speaker will again open the issue up for follow-up discussion from the members of the Tribal Council; follow-up discussion shall be limited to no more than five minutes.

f. At the conclusion of any follow-up discussion by the Tribal Council, the Tribal Council Speaker will call for a motion on the item.

g. The Tribal Councilor making the motion must specify the action to be taken (i.e. approval as presented; form or approval; approved with modification; tabled and referred for additional comment/review/action; tabled; disapproval) in the context of the motion.

h. Once a motion has been made, the Tribal Council Speaker will ask if there is support for the motion on the Floor. A motion must have support to be acted upon by Tribal Council.

i. A Tribal Councilor may change the terms of the motion on the floor, which will be treated as a motion to amend the motion and support will be requested for the amendment.

j. Upon receipt or support for the amendment, and conclusion of any discussion on the amendment, the Tribal Council Speaker will direct the Tribal Council Recorder to repeat the substance of the amendment and conduct a roll call vote of the Tribal Council.

k. Upon conclusion or a vote on an amendment, the Tribal Council Speaker shall question the Tribal Council on whether it wishes to continue discussion on the motion on the floor, or vote on the motion on the floor.

l. The Tribal Council Speaker will call for discussion on all motions and amendments to motions before the Tribal Council before a roll call vote is requested. The Tribal Council Speaker shall not entertain discussion on motions to adjourn a meeting, or to adjourn to Closed or Open Session.

m. Upon conclusion of any discussion or a request to vote on the motion, the Tribal Council Speaker will direct the Council Recorder to repeat the motion and conduct a roll call vote of the Tribal Council.

7.04. *Interpretation of Actions, Additional Direction.* The actions of the Tribal Council shall be interpreted in light of the processes set forth in this Ordinance. In the event additional direction is necessary, the latest edition of Robert's Rules of Procedure recognized by the National Association of Parliamentarians shall govern that interpretation. Provided that, the following specific rules of order shall supersede Robert's Rules of Procedure:

a. *Reconsider*. A motion to reconsider must be made within the same meeting as the reconsidered motion. If adopted, a motion to reconsider places the Tribal Council in the position as if no vote on the reconsidered motion had been taken and discussion may be

had on the reconsidered motion. A motion to reconsider may be brought on a prior action only once during a meeting. A motion to reconsider contains two parts:

1. Calling the motion to the floor. The initial motion to reconsider, or calling the motion to the floor, does not require a second. The Tribal Council Speaker must recognize the motion has been brought forward by a Councilor on the prevailing side of the motion being called to the floor. A Tribal Council member need not be recognized to reconsider, or call a motion to the floor, but cannot interrupt another Tribal Council member who has been recognized by the Tribal Council Speaker. The Tribal Council Speaker must identify when the motion to reconsider will be acted upon.

2. Voting to reconsider. At the time of voting to reconsider, a second to the motion to reconsider must be made. The Tribal Council member seconding the motion need not have been on the prevailing side. The motion to reconsider is adopted by a simple majority of those present at the meeting.

b. *Abstention from Voting*. Tribal Council members shall have a duty to vote for each matter up for vote while the Tribal Council member is in attendance at a Tribal Council Meeting, subject to a Tribal Council member's obligation to abstain from voting. An abstention shall be valid only for the reasons stated below:

1. *Abstention Required.* Tribal Council Members shall abstain from voting when that Tribal Council Member, or Tribal Council by majority vote, deems that the item presents a conflict-of-interest, as that term is defined by Article IV, Section 6(f)(2) of the Constitution of the Little River Band of Ottawa Indians.

2. *No Participation in Deliberations*. Prior to beginning deliberations on an agenda item, the Tribal Council Speaker shall read the following statement: "Any Tribal Councilor who intends to abstain from voting on this agenda item must state that intention now." Any member of the Tribal Council who declares that they intend to abstain from voting based on a conflict of interest must also declare the circumstances and/or nature of the conflict. The Tribal Council, in accordance with Article IV, Section 6(f)(4) of the Constitution of the Little River Band of Ottawa Indians, shall then determine by a majority vote if that member should abstain from voting on the agenda item; provided however that if the Tribal Council member believes that a conflict exits they cannot be compelled to vote.

c. *Table*. A motion to table, whether to a specific location on the agenda or otherwise, means to temporarily suspend consideration of, or action on, an agenda item with the intent of bringing the item back for consideration at a later part of the meeting. A motion and majority vote of the Tribal Council is needed to table an item. Unless tabled to a

specific location on the agenda of the same date, a motion and majority vote of the Tribal Council is needed to remove an item from the table, at which time it is immediately under consideration. If a tabled agenda item is not removed from the table during the same meeting, the item is considered to be removed from that meeting's agenda and must be brought back with a new agenda request.

d. *Postpone*. A motion to postpone means to move an agenda item to a future meeting of the Tribal Council and is adopted by a majority vote.

1. If the approved motion to postpone does not specify a future meeting date or a condition which must be satisfied before the item can be considered, the item will automatically appear on the agenda of the next regularly scheduled Tribal Council meeting under "Old Business."

2. If the approved motion to postpone does specify a future meeting date or a condition which must be satisfied before item can be considered, it will appear under "Old Business" with a notation that no action is needed until the specified date, or the condition that must be met prior to consideration. Each postponed motion identified under this subsection must contain the word "Postponed" prior to the agenda item. No action need be taken on this item until the word "Postponed" is removed and the conditions have been met, or the date of the meeting to which the agenda item was postponed has been met.

e. *Withdrawing Motions*. A Tribal Councilor who makes a motion may withdraw that motion prior to the Tribal Council Speaker re-stating, or asking the motion to be re-stated by the Recorder, and calling for a roll call vote.

7.05. *Conduct of Tribal Members and Public.*

a. Any Tribal member wishing to address the Tribal Council or any person presenting an agenda item must be recognized by the Tribal Council Speaker before making any comments. Tribal members must identify themselves by name and enrollment number and state why they are giving testimony. Persons speaking without first being recognized shall be considered "out of order" and will be requested to be silent until recognized.

b. Tribal members and other members of the public in the audience may not engage in "side-bar" conversations during Tribal Council meetings, which have the effect of interrupting or disturbing a Tribal Council meeting. Persons engaging in such conversations may be considered "out of order" and will be asked to be silent.

c. Persons who continue to speak out of order after being asked to be silent may be removed from the Tribal Council meeting.

d. Tribal members recognized must address their comments or questions in a respectful manner, without shouting or engaging in personal attacks or profanity. Comments or questions shall be limited to the agenda item on the floor. The Tribal Council Speaker shall refer unrelated comments/questions to the public comment portion of the agenda. Tribal members shall limit their questions and comments to five minutes.

e. All comments or questions must be presented to the Tribal Council in a respectful manner, without shouting or engaging in personal attacks, or profanity. Audience members who are "out of order" will be asked to be silent and/or cease engaging in their disruptive behavior. If the audience member continues to be "out of order," the Tribal Council Speaker shall ask the audience member to leave. If the audience member refuses to leave, he or she shall be removed from the meeting by the Little River Band of Ottawa Indians Tribal Police.

Article VIII. Action by the Tribal Council

8.01. *Action by Tribal Council.* In accordance with Article IV, Section 6(g) of the Constitution, the Tribal Council shall act only by ordinance, resolution or motion.

8.02. *Action by Ordinance.* Under the following circumstances, the Tribal Council will act by ordinance:

a. When adopting or establishing rules governing the conduct of members of the Tribe or other persons within the territorial jurisdiction of the Tribe;

b. When adopting procedures prescribing standards of conduct or performance applicable to the Ogema, or any subdivision of the Tribe; and

c. When creating regulatory commissions or subordinate organizations, particularly when any powers of the Tribal Council are to be delegated to such organizations.

8.03. *Action by Resolution.* Under the following circumstances, resolutions are either required or appropriate:

a. If the matter is one that the Constitution, any ordinance, charter or by-laws require a resolution;

b. If the matter consists of amendments to an ordinance or the charter or by-laws of subordinate Tribal entities;

c. If a certificate showing the authority granted by the Constitution or by any ordinance to the Tribal Council to perform a certain act is required to be filed or is likely to be required at some future date;

d. If the matter regulates the management of the Tribe or a subdivision of the Tribe and is meant to be permanent until changed; and

e. If the matter is one that is likely to be referred to from time to time.

8.04. *Form of Resolution.* Every formal resolution of the Tribal Council shall include the following information:

a. A concise statement of the issue(s) presented and the relevant procedural history;

b. A citation to the Constitutional and statutory authority for the action taken;

c. A precise statement of the action taken by the Tribal Council, including any terms or conditions attached thereto; and

d. If applicable, a clear directive or mandate identifying the person or entity responsible for implementing the action taken.

8.05. *Action by Motion.* All decisions, actions or directives of the Tribal Council, which are not memorialized by ordinance or resolution, shall be made by motion and roll call vote, in accordance with the procedure described in Section 7.03. Decisions, actions or directives of the Tribal Council should be clearly described in the minutes and, in most cases, be reduced to writing by the Tribal Council Recorder. The Tribal Council Recorder shall publish the record of decision or directive to the person(s) affected by such motion or to whom such motion is directed within five (5) business days of the date of the action.

8.06. *Presentation of Resolutions.* The Tribal Council Recorder shall have resolutions prepared and signed no later than noon on the day following the meeting in which the resolution was adopted. Resolutions shall be forwarded to the Ogema no later than 12:00pm on the day following the meeting in which they were adopted.

Article IX. Closed Meeting Procedures

9.01. *Closed Meetings Authorized.* The Tribal Council may, pursuant to Article IV, Section 6(d) of the Constitution, meet in closed session to address personnel matters, business matters or legal matters. All or part of a meeting may be held in closed session; provided that if only part of a meeting is to be held in closed session, the agenda for that meeting shall clearly identify the matters to be addressed in closed session.

9.02. *Purpose*. Closed sessions are intended to permit the Tribal Council to engage in open, frank discussion and debate regarding matters that may require confidentiality, involve proprietary business matters, negotiating positions or are covered by one or more legally recognized privileges.

9.03. *Procedures Applicable to Closed Meetings*.

a. All matters placed on the Tribal Council's agenda for consideration in closed session shall be reviewed by the Tribal Council Recorder to determine if the matter falls within the purposes for which closed session is authorized. The Tribal Council Recorder should consult with the Unified Legal Department if he/she is uncertain as to whether the matter can or should be considered in closed session.

b. If the Tribal Council Recorder, or any Tribal Council member, expresses reservations about the appropriateness or need to consider a matter in closed session, the question may be discussed in connection with the Tribal Council's approval of the agenda. Tribal Councilor members are required to preserve any confidences or proprietary/legal positions associated with the matter in the course of any discussion or debate.

c. The Tribal Council may only move into closed session following a motion and roll-call vote of the Tribal Council. Prior to calling for a motion to move into closed session, the Tribal Council Speaker shall provide a general description of the matters to be addressed in closed session, the person(s) required to be present during the discussion of each closed session agenda item, and the general reason for discussing such matters in closed session. The Tribal Council Speaker's description of the matter(s) shall be general enough to preserve any proprietary or privileged information.

d. A complete record of closed session business, including minutes of closed session discussion and debate, shall be maintained. Such minutes shall be filed in a sealed envelope unless all or a part of the record of such meeting is opened to the public by the Tribal Council or upon order of the Tribal Judiciary.

e. At the conclusion of each closed session, the Tribal Council will discuss whether any portion of the record (i.e. documents or written minutes) of such meeting can be open to the public. Except where the nature of the matter makes disclosure of the decision reached or action recommended following discussion of an item in closed session (i.e. adopting litigation strategy or negotiating position), a record of the decision made or action taken by the Tribal Council should be reported in the minutes and made public. If time permits, action by the Tribal Council should be moved to open session or placed on the agenda for action in open session at a future meeting.

f. Upon the conclusion of any closed session, the Tribal Council Speaker shall ask for a motion to move into open session and request a roll call vote.

g. At least quarterly, the Tribal Council shall review the schedule and minutes from previous closed sessions to determine if all or a portion of such minutes should be opened to the public. The determination to open any portion of a closed session's minutes shall be published to the tribal membership.

Article X. Removal Meeting Procedures

10.01. *General*. The Tribal Council is delegated authority and responsibility to remove elected officials of the Tribe under Article X, Section 3, of the Constitution of the Little River Band of Ottawa Indians. Requirements to carry out Section 3 removal powers are specifically identified and require notice and an opportunity to answer charges prior to a decision by the Tribal Council.

10.02. *Constitutional Grounds for Removal from Office, Defined*. The constitutional grounds for removal from elected office are defined in this section.

a. *Gross Misconduct or Malfeasance in Office*. Gross misconduct or malfeasance in office is defined to be that generally understood by the community as a failure to carry out the actions and responsibilities, or to act in a way that is contrary to the community expectations or the office.

1. *Gross misconduct in office means the complete and/or blatant dereliction of duty, unlawful or improper behavior*. Misconduct, to be considered "gross" under this section, must rise to an absolute, easily seen, extreme, and manifest action. The behavior must be seen as offensive, reprehensible and unmitigated.

2. *Malfeasance in office means an action that is plainly bad, doing an action badly*. Malfeasance, to be considered under this section, includes, but is not limited to, corruption, illegal action, misgovernment, mismanagement, unjust performance, or abuse of office.

b. *Conviction, while in office of a felony, or a crime involving dishonesty or moral turpitude*. Conviction by a court of competent jurisdiction while in office may include actions that were done prior to taking office, where the conviction itself occurs after taking office. A crime involving dishonesty or moral turpitude is further defined as follows, but is defined as generally understood by the community as an action in violation of the public trust, or personal trust, by the elected official under the purported authority of the office, or in personal actions.

1. Dishonesty means bad faith, cheating, corruption, deception and/or deceitfulness, falsification.

2. Moral turpitude means conduct that is contrary to justice, honesty or morality. In general, it refers to action that is an extreme departure from the community's standards of honesty, justice or ethics as to be shocking to the community.

c. *Inability to fulfill the duties of office due to mental or physical disability.* Inability to fulfill the duties of office refers to the ability to exercise judgment about the responsibilities of the office or to attend to the business of the office, and does not include simply being absent from the physical offices. Inability to fulfill the duties of office means that decisions, or the absence of decisions, are not in the best interests of the Tribe, members, employees, and finances of the Tribe.

10.03. *Resolution- Notice.* The elected official subject to removal shall receive a resolution, or resolutions, which sets forth, with specificity, the reasons for removal. The resolution shall be accompanied by a cover letter identifying the date, time and place, of the Tribal Council meeting at which the elected official may answer the charges against them.

a. *Content of Resolution.* The resolution shall identify the constitutional authority to take action, the elected official who is the subject of the removal action, the date, time and place of the Tribal Council meeting where the removal resolution will be voted upon.

b. The resolution shall have attached a separate document which identifies the conduct, incident, action, etc. that is the basis for the removal action and shall include the following information: the date and place the conduct, incident, action, etc. occurred, any documents relevant to the conduct, incident, action, etc., names of witnesses or other individuals with information regarding the conduct, incident, action, etc.

c. *Content of Notice.* The notice shall be the cover letter for the resolution, and shall identify the time and date of presentation to the elected official.

d. Filing of Notice and Resolution. A copy of the notice and each resolution shall be returned to the Tribal Council Recorder.

10.04. *Confidentiality; Sovereign Immunity.* Notwithstanding any law or regulation to the contrary, nothing shall prohibit or restrict the presentation of information related to removal in a resolution, the Tribal Council Meeting, the reading of the allegations, and in the answer to the allegations by the elected official. No law, regulation or other document shall, nor shall closed Tribal Council meeting restrictions, be authorized to prohibit the release of information necessary for presentation of allegations or answers. The constitutional requirements for an open meeting and answer to the allegations do not waive the sovereign immunity of the Tribe, and is

not an authorization for action to be brought against the Tribe for any action read and established.

10.05. *Receipt of Removal Resolution: Acceptance*. The Tribal Council Recorder, upon receipt of a resolution for removal of an elected official, shall place the resolution on the Tribal Council agenda for acceptance by the Tribal Council. The Tribal Council shall review the resolution and make a determination that the allegations have sufficient documentation to prove the truth of the allegations. Acceptance of the resolution shall not constitute approval of the reasons presented, and shall not constitute a determination for removal. The Tribal Council may appoint one or more members to verify the accuracy and/or authenticity of documentation presented.

10.06. *Setting Special Meeting for Public Hearing: Providing Notice*. The Tribal Council Recorder shall request a Tribal Council meeting to be scheduled which provides for service of notice on the elected official and ten days' notice to the elected official after presentation of the removal resolution. The agenda for the meeting shall contain items for Calling the Meeting to Order and Stating its Purpose, Roll Call, recusal of Tribal Councilors for conflict of interest, reading of the removal resolution ; answer to the allegations for removal, Tribal Member Comment, deliberation of Tribal Council, vote on resolution , and adjournment. Upon setting of the meeting date, time and place, the Tribal Council Recorder shall prepare the notice and copies of the resolution and any supporting documentation submitted, and request the Public Safety Department to serve the elected official.

10.07. *Witnesses: Documents*. The elected official shall submit to the Tribal Council Recorder, no later than 48 hours prior to the hearing date and time, a list of proposed witnesses that will be called and/or a copy of all documents that will be presented at the public hearing. Witnesses, at the time of the public hearing, shall swear an oath as to the truth and accuracy of their statements.

10.08. *Public Meeting for Removal- Procedures*. A meeting regarding the removal of an elected official shall be heard in the following order. The hearing shall be conducted regarding each count in each resolution, in the order as presented in the List of Counts.

a. The Tribal Council Speaker shall call the meeting to order, by identifying the purpose of the meeting B "A Meeting to Consider the Removal of [Name], [Office], from office under Article IX, Section 3 of the Constitution" and request the Tribal Council Recorder to conduct a Roll Call.

b. The Tribal Council Speaker shall request that Tribal Council members assert any conflicts of interests and requests for a determination on the conflict under Article IV, Section 6(f)(2),(4) of the Constitution.

c. The Tribal Council Speaker shall read the removal resolution.

d. The Tribal Council Speaker shall then identify and individually present the grounds for removal. The Tribal Council Speaker, or another member of the Tribal Council, shall then present documents and/or witnesses substantiating the validity of the Count.

e. The Tribal Council Speaker, upon conclusion of the presentation of each count, shall call upon the elected official and offer them the ability to answer the charges if they so desire. In all cases, the next count shall not be read until such time as the elected official has either identified that he or she has concluded their response or intends not to respond.

1. An elected official may choose not to answer the charges, provided that a decision to not answer the charges, either verbally, with a written statement, or by presentation of other documentation, shall be considered a waiver of this constitutional right by the elected official.

2. The right to answer the charges is offered at the meeting, and is not subject to a request for additional time, delay or other method to extend the time of the scheduled meeting.

3. The elected official may not request another to speak on his or her behalf, and must answer the charges personally. The elected official may have assistance in organizing their presentation, but this assistant shall not be allowed to speak on his or her behalf.

f. The elected official shall than present his or her witnesses or evidence in regard to each count. New evidence, not presented in accordance with section 10.07, which could not have been obtained 48 hours prior to hearing, may be accepted for the record by majority vote of the Tribal Council at the time of submission of the evidence.

g. The Tribal Council and the elected official may question any witnesses presented during the hearing while that witness is presented. After the original presentation, the other party may ask questions immediately following the original presentation.

h. Upon conclusion of the answer to each count in each removal resolution, the Tribal Council Speaker shall call for Public Comment by the membership present in accordance with Article IV, Section 6(e). Each tribal member shall be allowed one opportunity to speak for no more than five minutes. Time may not be split, traded, or given away to another tribal member. All comments are addressed to the Tribal Council.

1. Upon conclusion of the public comment period, the Tribal Council Speaker shall ask the Tribal Council if they wish to recess for deliberations and review of the information submitted. If a recess is requested, the Tribal Council Speaker shall set a recommended time for the Tribal Council to re-convene.

j. Upon conclusion of the recess, or if no recess is taken, the Tribal Council Speaker shall ask for a motion to adopt the resolution and a second. Upon receipt of a motion, the Tribal Council Speaker shall request the Tribal Council Recorder to take a roll call vote on the motion. The Tribal Council Speaker shall not accept a motion to reject the resolution. If no motion to adopt the resolution, or a second to such a motion, is received upon the third call by the Tribal Council Speaker, the removal resolution shall be considered to have failed. This action shall be repeated for each removal resolution presented.

k. If at least seven (7) of the nine (9) members of Tribal Council vote in favor of removal , the elected official shall be removed from office and the removal shall be effective as of the time of the vote in favor of removal. If less than seven (7) of the nine (9) members of Tribal Council vote in favor of removal, the removal resolution shall have failed.

l. A removal resolution that fails to be adopted shall be considered to have had Tribal Council opinion rendered on the actions of the elected officials, and those actions may not be brought before the Tribal Council as reasons for removal or that elected official on any other occasion. Provided that nothing in this subsection shall prohibit a tribal member from filing a petition for recall before the Election Board, and nothing in the decision of the Tribal Council shall be considered determinative by the Election Board regarding those actions as being sufficient to authorize a recall petition.

m. Upon conclusion of the vote, the Tribal Council Speaker shall announce the meeting as being adjourned as the sole item of business having been concluded and no other action is authorized.

Article XI. Records of Tribal Council Meetings

11.01. *Records Maintained of Each Tribal Council Meeting*. The Council Recorder shall be responsible for maintaining a record of each Tribal Council meeting at the offices of the tribal government.

a. *Closed Session Records*. Closed session records of the Tribal Council shall be maintained in a separate, sealed file along with the other records for that meeting.

11.02. *Contents of Records to be Maintained.* The record for each meeting shall consist of the following materials:

a. call of meeting, if applicable;

b. notice of meeting, if applicable;

c. published agenda for such meeting;

d. final agenda for the meeting;

e. a set of approved minutes for that meeting;

f. a set of original executed resolutions and ordinances, if any, that were approved at the meeting;

g. the materials submitted for review or action with respect to each item on the agenda;

11.03. *Maintenance of Minute Book; Resolution Book: Laws and Policies*. The records of the Tribal Council shall also include a minute book, a resolution book and a compiled set of all laws, ordinances and policies approved by the Tribal Council.

11.04. *Content of Minutes*. Each vote or the Tribal Council shall be recorded in the minutes, which shall include the following minimum information:

a. The substance of the agenda item under consideration;

b. The vote of the Tribal Council, including the names of each Tribal Councilor supporting, opposing or abstaining; and

c. If applicable, a reference to the existence of a formal resolution concerning the matter.

11.05. *Preparation of the Minutes*. The Tribal Council shall prepare the meeting minutes for adoption by the next scheduled meeting. Provided that, there shall be at least five business days between meetings, and minutes may be delayed to the next regular meeting if less than five business days exist between regular meetings. Upon approval, the Tribal Council Recorder shall forward the minutes for posting on the Tribe's website and in the Tribal Newsletter.

11.06. *Minutes Constitute Official Record*. For purposes of official tribal action, only formally approved Tribal Council minutes shall be used to prove the truth of the matter asserted or to resolve the evidentiary issue in question.

11.07. *Access to Council Minutes and Records*. In accordance with Article III, Section 2 of the Tribal Constitution, the general presumption is that all regular, special and emergency meetings are required to be recorded, with published meeting. All Tribal Council meeting minutes and records, excluding closed session minutes and records, shall be available for review during normal business hours of 8:00a.m. to 5:00 p.m. on Monday through Friday. Copies of meeting minutes and records shall be available upon request. Copies of approved meeting minutes will be provided to Tribal members without charge. All tribal members, and other members of the public, requesting other records or documents (i.e. reports and supporting documents) pertaining

to Tribal Council meetings, may be required to reimburse the Tribe a reasonable amount for the cost of reproduction. Requests for copies or meeting minutes and records shall be made on a form approved by the Tribal Council and available at the tribal administrative office.

Article XII. Membership Access to Video Recorded Tribal Council Public Sessions

12.01. *General.* Tribal Council believes that Membership participation in the governance process, including member access to open proceedings of the Council, will enhance governance process and improve transparency, while serving to improve information access to the Membership it serves.

12.02. *Authorization.* The Tribal Council consents to the Historic Preservation Department to record, via digital or other efficient recording method, the public sessions of Tribal Council Meetings. The Tribal Council authorizes the Historic Preservation Department and/or the IT Department to create the mechanisms necessary to grant access to Tribal Members that will enable Membership to watch Council Meeting Recordings, through the Tribe's Secured Website.

12.03. *Video does not replace Record.* The Tribal Council's official record is described in Article X of this code. Video Recording or any meeting as authorized by this section does not replace the official record defined by Article X.

CERTIFICATTON

I, Joseph Riley II, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Tribal Council Meeting Procedures Ordinance permanently adopted by the Tribal Council on February 22, 2012 and amended on September 28, 2016.

[Seal]