



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

Resolution #15-0225-051

*Repealing the Indian Preference in Employment Ordinance, Ordinance #11-600-02 and
Adopting the Indian Preference Ordinance, Ordinance #15-600-02.*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the legislative powers of the Tribe are vested in the Tribal Council according to Article IV, Section 1 of the Constitution; and

WHEREAS, the Tribal Council is authorized by Article IV, Section 7(a)(1) and (2) to exercise the inherent powers of the Tribe by establishing laws through the enactment of ordinances and adoption of resolutions to govern the conduct of Tribal Members and others within the Tribe's jurisdiction and to promote, protect and provide for the public health, peace, morals, education and general welfare of the Tribe and its members; and

WHEREAS, the executive powers of the Tribe are vested in the Tribal Ogema according to Article V, Section 1 of the Constitution; and

WHEREAS, the Ogema is authorized by Article V, Section 5(a)(2) to oversee the administration and management of the Tribal government in accordance with the laws, resolutions and motions adopted by Tribal Council; and

WHEREAS, the Tribal Council is authorized by the Administrative Procedures Ordinance, Ordinance #04-100-07, to adopt, amend and repeal ordinances; and

WHEREAS, the proposed Indian Preference Ordinance, Ordinance #15-600-02, has been posted for 30 days for public comment; public comments received; and a final work session was held on January 26, 2015; and

WHEREAS, Notice of Intent to Repeal the Indian Preference Ordinance, Ordinance #11-600-02, has been posted for at least fourteen days prior to adoption of this Resolution.

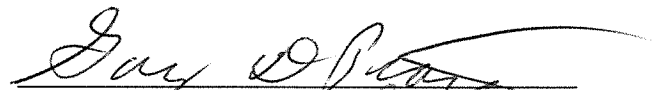
NOW THEREFORE IT IS RESOLVED, that the Indian Preference in Employment Ordinance, Ordinance #11-600-02, is repealed in its entirety.

IT IS FURTHER RESOLVED, that the Indian Preference Ordinance, Ordinance #15-600-02, is adopted, effective immediately.


IT IS FINALLY RESOLVED, that disputes or claims arising under the Indian Preference in Employment Ordinance, Ordinance #11-600-02, shall be construed under the ordinance in effect at the time the conduct complained of occurred.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 1 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held February 25, 2015, at the Little River Band's Government Center in Manistee, Michigan, with a quorum being present for such vote.



Gary DiPiazza, Interim Council Recorder



Virgil Johnson, Tribal Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema

**Indian Preference in Employment Ordinance
Ordinance #15-600-02**

Article 1. Purpose, Findings.

- 1.01. *Purposes.* The purposes of this Ordinance are to institute a fair and transparent process for applying Indian preference in hiring decisions made by the Tribe and its enterprises and to ensure that the Tribe recruits and retains the best-qualified candidates to work for the welfare of the Tribe and its Members.
- 1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:
- a. It is vested with the authority to promote, protect and provide for the public health, peace, morals, education and welfare of the Band and its members; to govern the conduct of the Band's Members and others within its jurisdiction; and to take necessary and proper action to carry out the sovereign legislative powers of the Band. (Constitution of the Little River Band, Article IV, Sections 7(a)(1) – (2) and Section 7(j));
 - b. The Tribal Ogema is vested with the authority to oversee the administration and management of the Tribal government and its enterprises, consistent with the laws, ordinances and resolutions of Tribal Council. (Constitution of the Little River Band, Article V, Sections 5(a)(2) and (8)); and
 - c. It is in the Tribe's best interest to institute a policy that encourages the economic advancement of its Members by granting preference in hiring for the many employment opportunities in the Tribe and its enterprises.

Article 2. Adoption, Amendment, Repeal, Severability.

- 2.01. *Adoption.* This Ordinance is adopted by resolution #15-0225-051, which repeals resolution #11-0504-143 and replaces Ordinance #11-600-02 with this Ordinance.
- 2.02. *Amendment.* This Ordinance may be amended in accordance with the procedures set forth in the Administrative Procedures Act, Ordinance #04-100-07.
- 2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act-Ordinances, Ordinance #04-100-07.
- 2.04. *Severability.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article 3. Definitions.

- 3.01. *General*. As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the meanings defined in this Article. Use of the word “shall” is always mandatory and not merely advisory.
- 3.03 *Federally-Recognized Indian Tribe* means any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and that is listed in the most recent Federal Register prepared pursuant to 25 USC §83.5(a).
- 3.04 *Indian Preference* means the practice of using an individual’s membership in a federally recognized Indian tribe as the determinative factor in taking an employment action.
- 3.05. *Regular Employment* means non-exempt, regular full- or part-time employment. It does not include full- or part-time exempt employees whose employment is contingent on possession of a license to practice a particular profession, including, but not limited to, medical doctors, pharmacists, attorneys and accountants.
- 3.06. *Tribal Descendant* means a person who is the first generation, biological issue of a Tribal Member of the Little River Band of Ottawa Indians.
- 3.07. *Tribal Member* means an individual who is enrolled in the Little River Band of Ottawa Indians, or who held such membership at the time of his or her death.
- 3.08. *Tribal Spouse* means an individual who, at the time of application for employment, is married to a Tribal Member, as evidenced by a current and valid marriage license. This definition includes surviving spouses of Tribal Members until remarriage.

Article 4. Application of Preference.

- 4.01. *Regular Employment*. If a preference candidate is qualified for a regular employment job position as posted, the Tribe shall offer the position based on the following levels of preference:
- a. First preference for hire shall be for Tribal Members;
 - b. Second preference for hire shall be for Tribal Descendants, Tribal Spouses and members of all other federally recognized Indian tribes; and
 - c. Final preference shall be for all other applicants.
- 4.03. *Notice of Preference*. Each job description for a regular employment position shall contain a statement that Indian preference shall apply.

- 4.04. *Grant-Funded Positions.* In the event that hiring requirements for a grant-funded position contain preference requirements that conflict with this Ordinance, the conditions of the grant shall control.
- 4.05. *Contract Employment Exempt.* This ordinance does not apply to job positions for full- or part-time exempt employees whose employment is contingent on possession of a license to practice a particular profession, including, but not limited to, medical doctors, pharmacists, attorneys and accountants.

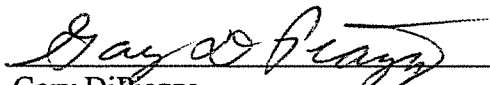
Article 5. No Property Interest; Sovereign Immunity Preserved.

- 5.01. *No Property Interest.* Nothing in this Ordinance shall be construed to create a right or prerogative of employment in any individual, nor shall it be construed to create a contract or agreement for employment out of any application for or conversation regarding employment.
- 5.02. *Sovereign Immunity Preserved.* Nothing in this Ordinance shall be construed to waive or modify the sovereign immunity of the Tribe against suit in any court.

CERTIFICATION

I, Gary DiPiazza, do hereby certify that this is a true and correct copy of the Indian Preference Ordinance, Ordinance #14-600-02, adopted by Tribal Council Resolution #15-0225-051.

02-25-2015
Date



Gary DiPiazza
Tribal Council Recorder - Interim

