ELECTION ORDINANCE

Ordinance #08-200-02

Section 1. Purpose; Findings.

1.01. *Purpose.* The purpose of this Ordinance is to establish guidelines governing the Election Board which is responsible for conducting elections under the Constitution. This Ordinance shall further define the responsibilities and limitations on the Election Board consistent with Article IX of the Constitution.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

a. The Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility and authority, "to exercise the inherent powers of the Little River Band by establishing laws...

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction; [and]

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members" Constitution, Article IV, Section 7(a); and

b. the election, compensation, scope of rules and swearing in members to elected positions should be clearly set forth consistent with Article IX of the Constitution.

Section 2. Adoption, Amendment, Repeal

2.01. *Adoption.* This Ordinance is adopted by the Tribal Council by Resolution # 01-1107-07. Adoption of this ordinance supersedes Tribal Council action on August 10, 1998 adopting the First Election Ordinance, # 98-200-02.

a. Amendments reflecting Constitutional Amendments November 7, 2001;

b. Amendment reflection Election Board Regulations and 2004 Constitutional Changes – Resolution # 09-0304-61; and

c. Amended by Resolution 20-0909-241 permanent adoption of amendments requiring

the Election Service Contract only provide services for two (2) election cycles then may return after two (2) election cycles, to include the definition of election cycle, updating the terminology related to compensation and to correct formatting and grammatical errors.

2.02. *Amendment.* This Ordinance may be amended from time to time as set forth in the Constitution or in procedures adopted by the Tribal Council.

2.03. *Severability.* If any Section, section, subsection, paragraph, sentence or other portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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

2.05. *Repeal.* This Ordinance may be repealed in accordance with the Administrative Procedures Act.

Section 3. Definitions.

3.01. *Application; Interpretation of Defined Terms.* For purposes of this Ordinance, certain terms are defined in this Section. The word "shall" is always mandatory and not merely advisory.

3.02. *"Candidate"* means a person who has filed any document(s) necessary to declare such person's candidacy for an elected position on the Tribal Council representing one of the three districts, for the office of Tribal Ogema, for vacancies on the Election Board, and for vacancies on the Tribal Court.

3.03. *"Constitution"* means the Constitution of the Little River Band of Ottawa Indians, ratified by a vote of the membership on May 27, 1998 and approved by the Assistant Secretary-Indian Affairs on July 10, 1998.

3.04. *"Districts"* means the three geographic areas consisting of the "At-Large District," the

"Nine County District" and the "Outlying District" from which the nine seats on the Tribal Council are elected as defined in Article IV, Section 2(b) of the Constitution.

a. *"At-Large District"* means the area representing all members of the Tribe for the purposes of voting during an election of the Tribal Council as defined in Article IV, Section 2(b)(2) of the Constitution. The At-Large District allows all registered voters to vote for this position. The At Large candidate can reside anywhere in the State of Michigan as long as he resides in the state six months prior to the election.

b. *"Nine County District"* means the area consisting of Kent, Lake, Manistee, Mason, Muskegon, Newaygo, Oceana, Ottawa, and Wexford Counties, in the state of Michigan for the purposes of voting during an election of the Tribal Council as defined in Article IV, Section 2(b)(1) of the Constitution. The Nine County District allows all registered voters who reside within the nine county area to vote for this position. The Nine County candidate can reside anywhere in the State of Michigan as long he resides in the state six months prior to the election.

c. *"Outlying District"* means the area representing the members of the Tribe residing outside the Nine County District for the purposes of voting during an election of the Tribal Council as defined in Article IV, Section 2(b)(3) of the Constitution. The Outlying District allows all registered voters who reside outside of the Nine County District to vote for this position. The Outlying District candidate can reside anywhere in the State of Michigan as long as he resides in the state six months prior to the election.

3.05. *"Election Board"* means the five (5) member Board responsible for conducting elections elected to office pursuant to Article IX of the Constitution.

3.06. *"Election Cycle"* means from the announcement of the regular election by the Election Board to the swearing in of the elected official.

3.07. *"Election Process"* means the steps necessary to conduct the election.

3.08. "*Election Service Contractor*" means the company the Election Board contracts with to conduct the election.

3.09. *"Eligible Voters"* means any enrolled member of the Tribe who has completed any

required voter registration process imposed by Election Board regulations.

3.10. *"Immediate Family Member"* means a parent, stepparent, spouse, sibling, step-sibling, or child. In addition, immediate family also means other person(s), whether or not related, residing in the same household.

3.11. *"Member"* means a person who is duly enrolled in the Little River Band of Ottawa Indians in accordance with the Enrollment Ordinance.

3.12. *"Poll"* or *"Polling Place"* means any place designated by the Election Board for voting to take place. In the case of elections by mail, the homes of registered voters shall constitute the "polls" as that term is used in Article IX, section 3(b) of the Constitution.

3.13. *"Registered Voters"* means any eligible voter who has fulfilled any additional requirements prescribed by the Election Board to vote in an election.

3.14. *"Residence"* means a member's primary and legal residence for the six (6) months preceding the date of the election. Evidence of residence may include, but not be limited to, the following: mailing address, address on driver's license, and address listed on utility bills.

3.15. *"Tribal Council"* means the nine (9) person body, elected from the three districts, which exercises the legislative powers of the Tribe.

3.16. *"Tribal Ogema"* means the executive officer of the Tribe, which office exercises the executive powers of the Tribe, elected by majority vote of members voting for the office of Tribal Ogema in the election.

Section 4. Election Board.

4.01. *Oath of Office.* Immediately upon election to the Election Board, the Tribal Court shall administer an oath of office to each new member of the Election Board. The oath of office shall include a commitment to uphold the Constitution of the Little River Band of Ottawa Indians, to perform faithfully and diligently the duties and responsibilities of the Election Board, and make every effort to prevent fraud or abuse of the election process. Such oath shall be administered both orally, at a public meeting of the Tribal Council, and in writing.

4.02. *Compensation.* Board members shall receive a stipend for attendance at meetings and

conducting an election. The amount of such stipend shall be set forth in a resolution adopted by Tribal Council. The Election Board shall notify the Tribal Council and the membership when an election is intended to begin, and during such time, the stipend may not be decreased. Nor may the stipend be decreased during the two (2) month period immediately following an election or during any existing election challenges, whichever is longer.

Section 5. Election Service Contractor.

5.01 *Election Service Contractor.* The Election Board shall procure a new Election Service Contractor after every two (2) election cycles. An Election Service Contractor that services the Election Board for two (2) election cycles may return and provide services again after two (2) election cycles have been completed Any Election Service Contractor that has provided services in the past will not be considered if served within the two (2) previous election cycles.

Section 6. Election Procedures.

6.01. *Election Rules and Procedures.* The Election Board shall issue such regulations consistent with the Constitution. Proposed regulations shall be posted at the Little River Band Community Center, Little River Tribal Office, Little River Band Health Center and presented to the Tribal Council for comment 30 days prior to final consideration or approval by the Election Board.

Section 7. Swearing in New Officials

7.01. *Conclusion of Election.* The election shall be concluded upon submission by the Election Board of the Final Report to the Tribal Ogema, Tribal Council Speaker, and filing with the Tribal Court. Provided that, acceptance by the Tribal Council shall be by placement of the Final Report on the next available agenda of the Tribal Council, or by Special Meeting within five (5) days of receipt of the Final Report, whichever occurs earlier.

7.02. *Swearing In.* The newly elected Tribal Ogema or Tribal Councilor shall be sworn in at the Tribal Council meeting following receipt by the Tribal Council as set forth in section 6.01.

7.03. *Scheduling.* The Tribal Council shall, during the same meeting at which the Final Report

is received, choose from among themselves a representative(s) to make arrangements for the swearing in ceremonies. Such arrangements shall include notice to the membership of the date, time and place of the ceremonies of the new officials in a manner deemed appropriate by the Tribal Council.

CERTIFICATION

I, Gary DiPiazza, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Election Ordinance adopted by the Tribal Council Resolution #09-0304-061 on March 4, 2009 and most recently amended by Tribal Council Resolution #20-0909-241.

Gary DiPiazza

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