

ACCESS TO HOMEOWNERSHIP INITIATIVE ACT
Ordinance # 05-700-08

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this ordinance is to develop a comprehensive Access to Homeownership Initiative by creating a Down Payment Assistance Program, a Closing Costs Assistance Program, and a Homeownership Education Program. These programs are designed to assist Tribal members who are either buying, building, or planning to buy or build, either within or outside the Reservation or Trust Lands boundaries. The overall purpose of the Access to Homeownership Initiative is to provide a variety of Tribal housing initiatives to promote homeownership and to provide tangible financial assistance to help them defray some of the costs associated with homeownership. The Homeownership Initiative also includes an educational segment represented by the Homeownership Education and Credit Assistance Program.

1.02. *Findings.* Tribal Council finds that:

- a. It is delegated responsibility, in Article IV, Section 7(a) of the Constitution, to exercise the inherent powers of the Little River Band by establishing ordinances through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:
 1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;
 2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members, @
- b. It is further delegated responsibility, in Article IV, Section 7(j) of the Constitution, to take action not inconsistent with this Constitution or Federal law, which shall be necessary and proper to carry out the sovereign legislative powers of the Tribe.
- c. It is an essential element of providing for the health, peace, and general welfare of the Tribal members to encourage homeownership.
- d. Tribal members interested in achieving homeownership normally face a difficult time meeting the down payment requirement to qualify for a mortgage loan,
- e. It is necessary to utilize existing low-down payment programs and further develop tribal programs to assist Tribal members achieve homeownership by helping them overcome some of the obstacles they face, such as the inability to meet down payment requirements.
- f. Further, it is also a reality that closing costs can be prohibitive and may prevent Tribal members from pursuing homeownership; thus, a program is needed to help members overcome such obstacles,
- g. It is necessary to develop and/or effectively utilize a combination of existing homeownership education programs to encourage and assist the membership with homeownership as well as credit requirements.
- h. It is necessary to limit the amount of annual combined funds budgeted for the Down Payment and Closing Cost Program to a total of \$100,000.00.
- i. It is necessary to restrict the use of this Program to one time per Tribal Member and to restrict the total that a Tribal Member can receive to \$5,000.00 combined from the Down Payment and Closing Cost Assistance Programs.
- j. It is necessary that in order to be eligible for assistance under either the Down Payment Assistance Program or the Closing Cost Assistance Program, the Tribal Member shall be pre-approved by a bank or financial institution for all appropriate criteria, including credit scores and work history prior to applying for assistance.
- k. It is necessary to prohibit Tribal Members who obtain benefits under this Program from

applying for and/or receiving down payment or closing cost assistance under any other Tribal Program.

Article II. Adoption; Amendment; Short Title; Severability

- 2.01. *Adoption.* This ordinance was adopted by the Tribal Council by resolution # 05-1221-711.
- a. This Ordinance was amended by Resolution No. 08-0409-_____ to remove the refinancing assistance program; provide a maximum of funding and maximum of funds budgeted for the program; clarify eligibility criteria; and provide for required pre-approval in order to be considered for the program.
- 2.02. *Amendment.* This ordinance may be amended by Tribal Council in accordance with the procedures set forth in the Administrative Procedures Act – Ordinance.
- 2.03. *Repeal.* This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act – Ordinances.
- 2.04. *Short Title.* This Ordinance may be cited as the Homeownership Initiative Act.
- 2.05. *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.

Article III. Definitions

- 3.01. *General Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. The word “shall” is always mandatory and not merely advisory. In addition, terms and expressions used in this Ordinance shall be interpreted as defined by the Leasehold Mortgage Program Act.
- 3.02. *Tribe* means the Little River Band of Ottawa Indians.
- 3.03. *Tribal Council* means the Tribe=s governing body.
- 3.04. *Tribal member* means an individual enrolled as a member of the Tribe.
- 3.05. *Down payment* means the amount of money in cash or deposit required up front for a conventional lender or mortgagee as a condition to grant a mortgage loan. The down payment amount is usually expressed as a percentage of the total cost of the real estate subject of the transaction and does not cover closing costs.
- 3.06. *Closing costs* means the expenses assessed at the time of closing a mortgage transaction which are separate and apart from the purchase price and interest.
- 3.07. *Credit Report/Scores* mean the personal credit evaluation report issued by any of the nationally recognized credit bureaus upon the request of a lender or the borrower. Such scores reflect the credit worthiness of the applicant, expressed in standard scores linked to certain levels of debts, delinquency and other similar factors.

Article IV. Down Payment Assistance Program

- 4.01. The purpose of this Ordinance is to establish a Tribal Down Payment Assistance Program to encourage homeownership among Tribal members regardless of their place of residence and income level. Assistance through this Program is available to purchase an existing home or to build a new house which may be located on fee land or trust land.
- 4.02. To be eligible for the program the individual must be a Tribal member, over 21 years of age, who at the time of the application does not own a house and who has not previously accessed funds under this Program or any other Tribal Program that provides down payment assistance. A Tribal member who currently owns a house does not qualify to receive down payment assistance to purchase a second home. However, a Tribal member who sells his/her existing home and agrees

to apply proceeds from the sale to purchase/build a new home, which will be used as his primary residence, could qualify for assistance, provided that he has not previously received funds under this Program or any other Tribal Program that provides down payment assistance. In addition, the Tribal member must demonstrate (s)he has been pre-qualified to receive either a conventional mortgage or a Section 184 or similar Loan Guarantee. The sole assumption of an existing mortgage does not qualify for this down payment assistance program. The home purchased through this assistance must be a single family residence and become the legal residence of the Tribal member.

Tribal Members who, within ten years of receipt of funds under the program, fail to maintain the home as a permanent primary residence or subsequently acquire an additional interest in another home shall be required to return the funds provided under this Program to the Tribe.

4.03. Prior to applying for assistance under this Program, the Tribal Member shall be pre-approved by a bank or financial institution for all appropriate criteria, including credit score and work history. The Homeownership Education and Credit Assistance component of this Program shall be open to any Tribal Member, regardless of whether he or she has been pre-approved for a loan. Tribal Members who believe they may not obtain pre-approval are encouraged to participate in the education component of the Program.

4.04. The sum granted for down payment assistance shall be 2.33% of the total purchase price, but not to exceed the sum of \$3,500.00. That maximum amount corresponds to 2.33% of a \$150,000 loan. Tribal Council may from time to time establish by resolution a different maximum loan amount to use as the top sum allowed as down payment assistance. The actual sum will be calculated based on the purchase price of the house regardless of the amount of money the Tribal member borrower has available independently from the down payment assistance, or any other money applied to the purchase price as earnest money. No Tribal Member shall be granted more than the combined amount of \$5,000.00 from the Down Payment Assistance Program and the Closing Cost Assistance Program.

4.05. The resources available for down payment assistance are limited and intended to benefit a large segment of the membership, therefore a Tribal member who has already been granted down payment assistance is not entitled to any further grant under this or any other Tribal Program providing down payment assistance.

4.06. The Down Payment Assistance Program will be administered by the Housing Department. To this effect, the Housing Department is hereby authorized to prepare the proper applications and establish management and processing guidelines. The Housing Department cannot add more eligibility requirements than those established in this Ordinance.

- a. The Housing Department shall be responsible for preparing the annual budget which shall not exceed \$100,000.00.
- b. The Housing Department shall be responsible to provide review and pre-approval of all banks and financial institutions involved in this Program. The Housing Department shall review the programs to determine reasonableness of fees and compliance with other regulations and criteria.
- c. The Housing Department shall be responsible for administering the Program, including developing appropriate applications; assisting with Tribal Members' questions, and confirming disbursement of funds under the Programs.
- d. The Housing Department shall ensure that it has regulations in place that, at a minimum, provide procedures to be followed to ensure that applications are processed on a first-come, first-served basis and reviewed promptly. This shall include, but not be limited to, immediately date and time-stamping all applications upon receipt by the Department.
- e. Upon implementation of any other Tribal Program providing down payment

assistance, the Housing Department may, in its discretion, recommend that an applicant apply under that Program rather than this Down Payment Assistance Program if it determines that it would be in the Tribal Member's best interests to do so. Under no circumstances, however, shall the Housing Department require that the Tribal Member applies for benefits under a different Program.

4.07. The Housing Department must submit to the Tribal Ogema and Tribal Council a separate budget request to fund the Program on a yearly basis and submit a Program Report to the Ogema and Tribal Council on a monthly basis, stating the number of grants issued and the number of grants denied as well as the reasons for denial. The Housing Department shall provide a Program Evaluation and recommendations on a yearly basis, at the time of the department's budget request. The maximum annual budget for the combined Down Payment Assistance Program and Closing Cost Assistance Program shall not exceed \$100,000.00. 4.08. Upon approval, the Housing Department shall issue the tribal member a certificate stating the exact amount of the down payment available to the member. Unless other arrangements are made, the sum approved as the down payment assistance benefit will be sent directly to the financial institution that pre-qualified the Tribal member prior to the closing date, or will otherwise be made available at the date of closing.

4.09. The Housing Department shall inform each Tribal Member receiving down payment assistance of any potential tax consequences of such benefits.

Article V. Closing Cost Assistance Program

5.01. The purpose of this Ordinance is also to establish the Closing Cost Assistance Program to further encourage homeownership among Tribal members regardless of their place of residence and income levels. Assistance from this program is available to cover all or part of the closing costs associated with the purchase of an existing home or the costs associated with the closing of a loan to build a new house located on either fee or trust land. This program is designed to work in conjunction with the Down Payment Assistance Program described above; so, a Tribal member who qualifies to receive down payment assistance may also be entitled to receive closing costs assistance so long as he meets all applicable eligibility criteria of both Programs. Tribal members cannot access this program except through the down-payment assistance program.

5.02. To be eligible for the program the individual must be a Tribal member who is 21 years old or older, who has qualified for the Tribal Down-Payment Assistance Program, and who has not previously received funds under this or any other Tribal Program which provides closing cost assistance.

5.03. No Tribal Member shall be granted more than the combined amount of \$5,000.00 from the Down Payment Assistance Program and the Closing Cost Assistance Program.

5.04. The sum granted for closing costs assistance shall be 1.00% of the total purchase price, but not to exceed the sum of \$1,500.00. The maximum amount supra corresponds to 1.00% of a \$150,000 loan. Tribal Council may from time to time establish by Resolution a different maximum loan amount to use as parameter of the top sum allowed as closing costs assistance. The actual sum will be calculated based on the purchase price of the house regardless of the amount of money the Tribal member borrower has available independently from the down payment assistance or closing cost assistance, or any other money applied to the purchase price as earnest money. No Tribal Member shall be granted more than the combined amount of \$5,000.00 from the Down Payment Assistance Program and the Closing Cost Assistance Program.

5.05. The resources available for closing costs assistance are limited and intended to benefit a large segment of the membership, therefore a Tribal member who has already been granted closing

costs assistance is not entitled to another grant under this or any other Tribal Program which provides closing cost assistance.

5.06. The Closing Cost Assistance Program will be administered by the Housing Department. To this effect, the Housing Department is hereby authorized to prepare the proper applications and establish processing guidelines. The Housing Department cannot add more eligibility requirements than those established in this Ordinance.

5.07. The Housing Department shall ensure that it has regulations in place that, at a minimum, provide procedures to be followed to ensure that applications are processed on a first-come, first-served basis and reviewed promptly. This shall include, but not be limited to, immediately date and time-stamping all applications upon receipt by the Department.

5.08. Upon implementation of any other Tribal Program providing closing cost assistance, the Housing Department may, in its discretion, recommend that an applicant apply under that Program rather than this Closing Cost Assistance Program if it determines that it would be in the Tribal Member's best interests to do so. Under no circumstances, however, shall the Housing Department require that the Tribal Member applies for benefits under a different Program.

5.09. The Housing Department must submit to the Ogema and Tribal Council a separate budget request to fund the Program on a yearly basis and submit a Program Report to the Ogema and Tribal Council on a monthly basis, stating the number of grants issued and the number of grants denied and specifying the reasons for denial. Likewise, and in conjunction with the yearly Down-Payment Assistance Program Evaluation, the Closing Cost Assistance Program shall also be evaluated on a yearly basis, the submission of which is due at the time of the submission of the Housing Department budget. The maximum yearly budget for the combined Down Payment Assistance Program and Closing Cost Assistance Program shall not exceed \$100,000.00.

5.10. Unless otherwise arranged, the sum approved as closing costs assistance will be sent directly to the financial institution that pre-qualified the Tribal member prior to the closing date, or will be made available at the date of closing. To assure a clear separation of expenditures, this financial assistance shall be provided separately from any down-payment assistance.

5.11. The Housing Department shall inform each Tribal Member receiving closing cost assistance of any potential tax consequences of such benefits.

Article V. Homeownership Education and Credit Assistance Program

6.01. This Ordinance also establishes the Homeownership Education and Credit Assistance Program for the purpose of helping Tribal members understand the process of acquiring a home, including the obligations and rewards that come along with homeownership, as well as to assist those Tribal members who may not meet the credit qualifications required by the financial institutions to extend a mortgage loan due to past debts, delinquency, bankruptcy or other factors. Tribal Members who believe they may not obtain pre-approval are encouraged to participate in this Program.

6.02. The Homeownership Education program model to be utilized is any program that qualifies as such for HUD or Fannie Mae subsidized loans. The National American Indian Housing Council=s Pathways Home is one example of the types of programs currently available. This program is recommended for all applicants to the Down Payment Assistance Program and Closing Cost Assistance Program. Tribal Members who qualify for a mortgage are not required to complete the program. Tribal Members who cannot or believe they may not qualify for a mortgage on their own must complete this course, or equivalent course, as recognized by the Housing Department. Course work will be available locally through the Housing Department or on-site as it is available in locations accessible to where the Tribal member resides. For tribal members without such access,

on-line and/or long-distance education sessions which have been pre-approved by the Housing Department may be required. The Housing Department shall confirm that any such on-line or long-distance education sessions have been completed in full by the Tribal member.

6.03. The Credit Assistance Program is a component designed to offer Tribal members guidelines and assistance related to achieving a credit score as required by the financial institutions before they will grant a mortgage loan. This is a voluntary program that requires the commitment of the Tribal member as well as an authorization granted to the Housing Department to inquire into, on behalf of the Tribal Member, his/her credit records, his cooperation with possible credit arrangements, or pay-outs and such that will be aimed at repairing the credit of the member. The member shall participate in the program for as long as he remains interested in improving his credit rating to levels that qualify him to access reasonable mortgage terms. The Housing Department may stop the assistance at any time the member so requests or the member stops complying with the guidelines suggested by the Program staff. This program is purely assistive and educational in nature. The Housing Department is strictly prohibited from handling the personal finances of any Tribal member. All payments agreed upon with lenders shall reflect the obligation of the member with the lender, without any financial or surety involvement of the Tribe. The Housing Department may enlist technical assistance as may be available through lending institutions, legal advice as may be necessary from time to time, or services through HUD approved credit counseling agencies when more intensive services are required.

6.04. The Homeownership Education Program is voluntary for individuals who are pre-qualified under the Tribal Down Payment and Closing Costs Assistance Programs and mandatory for Tribal Members who do not or may not qualify for a mortgage on their own. The Credit Assistance Program is not mandatory. It is voluntary and recommended for individuals who have credit problems and/or have been denied mortgage credit and are prepared to cure their credit related obstacles and achieve homeownership.

6.05. The Housing Department must submit to the Tribal Ogema and Tribal Council a separate budget request to fund these two related programs on a yearly basis, and submit a combined Program Report to the Ogema and Tribal Council on a monthly basis. An evaluation of these programs is due at the time of the submission of the Housing Department budget.

Article VI. Funding, Retroactive Application, Effective Date

7.01. Funding for all the programs established in this Ordinance may be authorized on an annual basis by Tribal Council as part of the Housing Department Budget and the normal Tribal budgeting process. Annual budgeted funding shall not exceed \$100,000.00 for the combined Down Payment Assistance Program and Closing Cost Assistance Program. The Housing Department must individually submit a Budget request for each of these programs as part of their regular budget submission.

7.02. Tribal members who have already purchased a home who would have met the requirements of eligibility for any of the programs established in this Ordinance between September 21, 2005 and the date this Ordinance goes into effect, would still be eligible to have the expenses paid for down payment or closing costs being reimbursed up to the limits established for each program herein, with the funds going to reduce the principal of the applicants' mortgage.

7.03. This Ordinance will enter into effect upon Tribal Council's adoption and subsequent to the allocation of funding and shall only continue upon additional funding by Tribal Council Resolution. Tribal Council reserves the right to discontinue funding at any time deemed appropriate. Allocation of funding shall not take place until after January 1, 2008.