



# The Grand Traverse Band of Ottawa and Chippewa Indians

Legal Department

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682-9275 • (231) 534-7601 • FAX 231-534-7600

## MANDATORY 30-DAY POSTING

### MEMORANDUM

TO: Tribal Membership  
FROM: GTB Legal Department  
RE: Second 30-day posting regarding amendments to the Enrollment Ordinance  
DATE: January 31, 2020

**Please post the attached proposed amendments to the above referenced ordinance that was approved for a second 30-day posting by Tribal Council at the Tribal Council Special Session on January 29, 2020. Please post the above referenced ordinance in an area where GTB tribal members can review it for 30 days. This is a second opportunity for tribal members to provide comments, if any, about this proposed ordinance. Your comments will be provided to Tribal Council prior to the adoption of this ordinance. This posting will end on March 2, 2020 and can be removed at that time.**

Any comments regarding the above referenced should be directed to the GTB Legal Department either by writing to the GTB Legal Department, 2605 N.W. Bayshore Dr., Peshawbestown, MI 49682, or by telephone (231) 534-7601, or by e-mail, to [Mary.Kelley@gtbindians.com](mailto:Mary.Kelley@gtbindians.com).

#### **Posting Sites:**

Administration Building	EDC Building
Accounting Department Annex	
Annex II – Human Resources Building	Leelanau Sands Casino –
Benodjehn Child Care Center	Employees/Supervisors’ Break-room
Clinic	
Elder’s Complex	
Housing	
SBR Plant	Leelanau Sands “The Lodge” –
Natural Resources/Conservation	Employees/Supervisors’ Break-room
Maintenance Department	
Benzie Satellite Office – via e-mail	Turtle Creek Casino – Employees/Supervisors’
Charlevoix Satellite Office – via e-mail	Break-room
Traverse City Satellite Office – via e-mail	
Strongheart Center	
Library/Yo Building/Youth Center	
Tribal Court	

Attachments



**The Grand Traverse Band of  
Ottawa and Chippewa Indians**

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682-9275 • (231) 534-7750

**Certification of Tribal Council Action**  
**Special Session of January 29, 2020**

**I hereby certify as the Tribal Council Secretary that the foregoing  
Motion was Approved and Adopted at the Special Session of the  
Grand Traverse Band of Ottawa & Chippewa Indians Tribal Council**

**Approval of Amendments to the Enrollment Ordinance**

Motion made by Tribal Council Secretary Frankenberger and Supported by Tribal Council Member Napont to do another 30-day posting of this ordinance and to have it be brought back to Tribal Council.

4-FOR; 0-AGAINST; 2-ABSENT (Vargo, Wilson); 0-ABSTAINING  
**Motion Carries**

Tina A. Frankenberger, GTB Tribal Council Secretary

CC: Legal Department

**TITLE 7**  
**TRIBAL ENROLLMENT ORDINANCE**

**§ 1 - Purpose**

- 1.01. Pursuant to Article II, § 3, of the Constitution, the Tribal Council of the Tribe hereby enacts this ordinance which shall establish the Tribal enrollment procedures and policies.
- 1.02. All provisions of this chapter (Tribal Enrollment Ordinance) shall be interpreted and controlled by Article X, Constitutional Rights, of the Constitution, and case law developed by the GTB Tribal Court under the provisions of Article X of the Constitution.
- 1.03. Legislative Action. This Tribal Council shall have the authority to amend or repeal this ordinance in accordance with procedures set forth in the Constitution and by the Tribal Council. The legislative history of actions taken in regards to this ordinance shall be as follows:
  - (a) Repeal of Tribal Act #88-612.
  - (b) Repeal of Tribal Act #88-618.
  - (c) Repeal of GTB Adoption Ordinance, Ordinance # 88-008, as amended, and Ordinance #89-008.
  - (d) Repeal GTB Resolution #01-19.1008 [establishment of Enrollment Committee].
  - (e) Repeal GTB Resolution #02-20-1094 [Enrollment Committee responsibilities and stipends].
  - (f) Repeal GTB Resolution #04-22.1337, Retrocession of FY '04 BIA Funding Repeal Tribal Enrollment.
  - (g) Repeal and replace Title VII of the Grand Traverse Band Code.
  - (h) Repeal GTB Resolution #04-22.1379.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

**§ 2 - Definitions**

- 2.01. Terminology used in this ordinance as well as by the Membership Staff and the Tribal Council shall be defined as follows:
  - (a) Adopted Child - One whose biological parent(s) parental rights have been terminated by a court and given to another.

- (b) Adult - Any competent person who has reached the age of eighteen (18) years.
- (c) Base Roll - The term "Base Roll" is used in the federal tribal enrollment context to mean the official Tribal enrollment roll that contains the Bureau of Indian Affairs' determined degree of Indian blood from which degrees of Indian blood are arithmetically established for all GTB Tribal members. The degree of Indian blood in the Base Roll can only be changed by the Federal Government. The Base Roll that was approved by the Secretary of the Interior on September 22, 1988, and defined as a listing of all individuals who were enrolled as members of the Band on November 1, 1985, as well as those who had applied for membership by the aforementioned date, met the membership requirements then in existence, and who also met the criteria contained in Article II, § 1(b) of the Constitution, approved by the Secretary of the Interior on March 29, 1988.
- (d) Constitution - The Constitution of the Tribe as approved by the Secretary of the Interior on March 29, 1988.
- (e) Degree of Indian Blood (DIB) - The total blood quantum derived from the Tribes, Bands or Groups recognized by the Federal Government of the United States of America, and by the Durant Roll as defined below.
- (f) Direct Lineal Descendant - The term "direct lineal descendant" shall mean a person who is a direct blood relative to a claimed ancestor as shown by proof of a direct line of descent from such ancestor, for example, grandfather to father to son.
- (g) Disenrollment - An affirmative action by the Tribe to deprive a Tribal member of the right to Tribal membership.
- (h) Documentation - Legal evidence to support an alleged statement of fact.
- (i) Durant Roll - The federal census payment-roll completed by Horace Durant in 1908, as approved by the Secretary of the Interior on February 18, 1910, and as clarified by Durant's corresponding field notes.
- (j) Family tree chart - A chart used to trace and demonstrate family relations.
- (k) Federally-Recognized - Tribes, Bands or Groups recognized by the Federal Government of the United States of America; this is not inclusive of those Tribes, Bands or Groups recognized by non-U.S. governments.
- (l) Future Member - Any applicant for membership with the Tribe who meets the criteria outlined in the Article II, § 1, of the Constitution.
- (m) "Historic Grand Traverse Bands who are listed on the Durant Roll" means the Bands whose members appear on pages 38 through 46, inclusive, of the notes accompanying the Durant Roll" as stated at Article II, § 1(a)(3) of the Constitution.

- (n) Incompetent(s) - Person(s) who have been legally determined to be incapable of managing personal affairs on their own behalf.
- (o) Indian Blood - Indian blood means a certificate degree of Indian blood provided by the Bureau of Indian Affairs pursuant to its regulations or certification from United States Federally Recognized Indian Tribes.
- (p) Indian Descent - Indian Descent means; descent from an individual who has a certificate degree of Indian blood from the Bureau of Indian Affairs or an arithmetically established degree of Indian blood or descent from a United States Federally Recognized Indian Tribe. Indian descent can also be established by a DNA test as provided in § 5.04(c) of this ordinance.
- (q) Michigan Ottawa and/or Chippewa - Defined as "any person listed on the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910," at Article II, § 1(a)(2) of the Constitution.
- (r) Minor/Child/Children - Any person(s) who has not reached the age of eighteen (18) years.
- (s) Notarized - A document attested before or authenticated by a Notary Public who witnesses the signature and certifies that the signature is authentic.
- (t) Present perfected interest - a legal share in something; all or part of a legal or equitable claim to or right in property whereby the claimant has taken all legal steps needed to complete, secure or record a claim, right or interest.
- (u) Relinquishment - Relinquishment means that a Tribal member, or a Tribal member's legal parent or guardian, voluntarily and officially gives up his/her right to membership.
- (v) Six-county service area - Defined as the six-county area of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Manistee of the State of Michigan which the Tribe has jurisdiction over its membership.
- (w) Substantial community ties - "Substantial Community Ties" means for purposes of Article II, § 3(a) of the Tribal Council's authority to confer membership rights on any person Constitution that the person must establish show that he or she is one-fourth (1/4) degree Indian of which one-eighth (1/8) must be Grand Traverse Band shall suffice as establishing grounds to adopt the person for purposes of membership provided, however, that the person to be adopted shall have been a resident and domiciliary of the GTB's six-county service area for a period of three (3) years immediately prior to the adoption a cultural, familial, social, or economic connection, or combination thereof, to the Grand Traverse Band of Ottawa and Chippewa Indians, that is sufficient to deem the person a part of the Tribal community.

- (x) Tribal Adoption - One of the optional processes available for enrollment in the Tribe.
- (y) Tribal Council - The executive/legislative branch of the Tribe.
- (z) Tribal member - A duly enrolled member of the Tribe.
- (aa) Tribe - As used in this ordinance means the Grand Traverse Band of Ottawa and Chippewa Indians.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### § 3 - Degree of Indian Blood (DIB)

- 3.01. Degree of Indian Blood (DIB) Defined - The total blood quantum derived from the Tribes, Bands or Groups recognized by the Federal Government of the United States of America as established by the determination process of a certificate of degree of Indian blood, 65 FR 20775-01 (April 18, 2000).
- 3.02. The DIB shall affect the determination to enroll or disenroll members of the Tribe. Individuals who possess the required DIB as outlined in § 4 of this ordinance shall be eligible for membership with the Tribe.
- 3.03. Should events arise that would reveal that a Tribal member does not possess the DIB that is on file-whether determined to have a greater or lesser amount based on documentation, or not to possess the appropriate DIB required to maintain enrollment as set forth by the Tribal Constitution and § 4 of this ordinance-the following actions will be taken to pursue correction:
  - (a) Contact the Tribal member, or the Tribal member's legal parent or guardian, in written form and inform such Tribal member that the DIB of the referenced Tribal member shall be changed. The correspondence must include:
    - (1) An outline of the current DIB on file for the affected Tribal member as well as the projected change of DIB.
    - (2) Notification to the affected Tribal member that he/she has thirty (30) calendar days from the date of the letter in which to supply arguments and evidence why he/she should not have the DIB changed.
  - (b) The notice required under paragraph (a) above shall be mailed to such Tribal member's last known address by registered mail, return receipt requested, at least thirty (30) days prior to changing such Tribal member's DIB.
  - (c) If, after thirty (30) days, there is either no response or a nonmeritorious response is given, and the grounds for a change in DIB is verified, the Membership Department

Manager shall submit a Certification for Change of DIB to the Tribal Council with an accompanying report.

- (d) If the Tribal Council determines that the change of DIB report is correct, the Tribal Council shall approve the Certificate for Change of DIB.
- (e) Upon approval of a Certificate of Change of DIB, the Membership Department Manager shall provide the affected Tribal member, or such Tribal member's legal parent or guardian, a notice of the Tribal Council's action and inform the Tribal member of the appeals procedure pursuant to § 9 of this ordinance.
- (f) If the Tribal member has offered documents to support arguments against changing his/her DIB and the Membership Department Manager concurs with the arguments provided, the issue shall be void and a letter will be issued to the Tribal member stating the reversal of the intent to change the Tribal member's DIB.
- (g) In the event that a change in a Tribal member's DIB affects his/her eligibility to maintain enrollment in the Tribe, the process outlined in § 7 of this ordinance shall be enforced.

#### 3.04. Changes in Base Roll Degree of Indian Blood.

- (a) In no event shall the Tribal Council make changes in the degree of Indian blood in the Base Roll without the specific written recognition and consent of the appropriate federal official as established by published and enacted federal regulations governing changes in degrees of Indian blood.
- (b) Upon the recommendation of the Tribal Enrollment office, the Tribal Council may enact a specific resolution describing with arithmetic particularity the circumstances and arguments for a change in the degree of Indian blood in the Base Roll which shall not be effective until the conditions of § 3.04(a) have been met.
- (c) Once the conditions of § 3.04(a) and (b) have been met, then the Tribal Council shall enact a second resolution describing with arithmetic particularity the circumstances and arguments for the change of degree of Indian blood and specifically noting by copy the consent document of the appropriate federal official for a change in the degree of Indian blood in the GTB Base Roll.
- (d) Upon enactment of the resolution in § 3.04(c), then the actual change in degree of Indian blood shall be made in the Tribal Base Roll.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### **§ 4 - Eligibility for Membership**

4.01. Membership in the Tribe shall consist of the following:

- (a) Base Roll Membership:
- (1) All persons whose names appear on the approved Base Roll of the Tribe.
- (b) Future Membership:
- (1) Enrolled members of the Band on the effective date of the approved Constitution who met the eligibility criteria contained therein.
  - (2) Direct lineal descendants of Tribal members on the Base Roll who possess at least one-fourth (1/4) Indian descent [DIB as defined in this ordinance], of which at least one-eighth (1/8) must be traced to the Michigan Ottawa and/or Chippewa who are listed on the Durant Roll; or
- 4.02. Membership by Adoption. Any person may be adopted into the Tribe by resolution approved by a majority vote of the Tribal Council, if that person is at least one-fourth (1/4) Indian blood; ~~proof of residency is verified in the six county service area, the person is domiciled in the six county service area, and~~ if that person can demonstrate, by other means, substantial community ties to the Tribe.
- Individuals who become members of the Tribe through the adoption procedure shall thereupon enjoy and be entitled to all the rights and privileges associated with membership of the Tribe.
- 4.03. Membership Rights of Children Who Have Been Adopted By State Law: Children, as defined in § 2.01(r), who are of Indian descent, as defined in § 2.01(f) and (p), and who have been legally adopted by a member of the Tribe may be enrolled as Tribal members. Provided, however, that the State law adoption does not change the biological degree of Indian blood for purposes of future enrollment of the State law adopted Tribal member's children.
- Any Indian child eligible for membership who is adopted by a non-Indian family shall be eligible for membership in the Tribe, notwithstanding such adoption.
- 4.04. Burden of Proof. As with others seeking enrollment with the Tribe, the burden of proof of quantifiable DIB, as outlined in § 4.01(b)(2), and all other applicable requirements is the responsibility of the applicant.
- 4.05. Cause for Prohibition of Enrollment. Individuals shall not be eligible for enrollment as a Tribal member if the person seeking to be enrolled into the Tribe is enrolled in another Federally Recognized Indian Tribe, Band or Group.
- 4.06. For purposes of determining disputed questions of fact on DIB, the Membership Department Manager, or his/her assigned personnel, shall, to the extent practicable, follow the determination procedures established by the DIB federal regulations at 65 FR 20775-01 (Proposed Rules of the Department of the Interior; Certificate of Degree of Indian or Alaska Native Blood, April 18, 2000).



## 4.07. Rules of Decisions and Evidentiary Standards.

- (a) Durant Roll of 1908 - Presumption of 4/4 Indian blood quantum - Where there is no other information within the Durant Roll of 1908 and its included supplemental information indicating blood quantum other than of the Tribe or band identified, the person is presumed to be 4/4 blood quantum of that Tribe or band.
- (b) Burden of Proof in Review:
  - (1) Presumption of Accuracy. Each file shall be presumed to be accurate.
  - (2) Presumption Regarding Original Documents. Each document in a file shall be presumed to be either an original or a copy of an original document. Errors on documents in a file must be clear and convincing in order to require re-submission or verification of accuracy.
  - (3) Application of Existing Rules. No file shall be required to meet rules or requirements that were not in existence at the time of the original decision.
- (c) Application of Appeal Decisions. Decisions entered by the Secretary of the Interior in any appeals filed during the preparation of the 1988 Base Roll shall be considered final decisions, res judicata, and those decisions shall govern any affected computations of blood quantum made during any review.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

**§ 5 - Enrollment Procedure for Future Membership**

- 5.01. Applications for enrollment will be furnished by the Membership Office.
- 5.02. A separate application is required for each individual seeking enrollment or for whom enrollment is sought. A legal, custodial parent of a minor under the age of 18 may file an enrollment application on behalf of his/her children. Legal guardians of other legally incompetent applicants may file enrollment applications on behalf of such person; however, the Membership Department Manager may require proof of a guardian's status as a condition of approving an application submitted on behalf of such person. The Membership Department Manager, or his/her designated personnel, shall assign a control number to each application received.
- 5.03. The burden of proof rests with each person submitting an application for enrollment to establish the applicant's eligibility for enrollment pursuant to § 4 of this ordinance.
- 5.04. Documentary evidence such as birth certificates, death certificates, baptismal records, or copies of probate court findings may be used to support the enrollment application. Records of the Tribe or the Bureau of Indian Affairs may be used to establish eligibility. The Membership Department Manager, or his/her assigned personnel, may utilize

documents submitted on behalf of one family member in determining another family member's eligibility.

- (a) Only original documents shall be accepted, which shall be copied by the Membership Department Manager, or his/her assigned personnel, and returned to the person who submitted the document.
  - (b) Only the Membership Office shall receive the original birth certificates. There shall be a rebuttable presumption that and only the parent(s) listed on the birth certificate shall be counted as the biological parents who are used for purposes of eligibility determinations.
  - (c) If paternity is a contested question of fact or if insufficient documentation exists to establish paternity, an enrollment applicant may, with the voluntary consent of the parties, undergo blood, tissue typing and/or genetic marker tests, which may include, but are not limited to, tests of red cell antigens, serum proteins, and deoxyribonucleic acid (DNA) analysis. In order to establish the evidentiary basis of the paternity testing results for purposes of enrollment or disenrollment, the party seeking to have the paternity testing results considered in an enrollment or disenrollment decision must establish that the paternity testing procedures and results were consistent with the authorizing laws of the jurisdiction in which the tests were performed.
  - (d) ~~An~~ The Membership Office shall not accept an Affidavit of Parentage shall not be accepted unless accompanied with a conforming original birth certificate, legal deoxyribonucleic acid (DNA) paternity testing, adoption decrees, and/or certificate of adoptive information listing natural parents(s).
- 5.05. The Membership Office shall make every effort to complete their review of each application within one hundred twenty (120) days after receipt of the application.
- 5.06. The Membership Department Manager, or his/her designated personnel, shall make their determination in writing stating the reason(s) for acceptance or rejection of the application.
- 5.07. Individuals whose applications for enrollment are accepted shall be assigned an enrollment number and shall be issued an enrollment card signed by the Tribal Chairperson and the Membership Department Manager.
- 5.08. If the application has been rejected for enrollment, the Membership Department Manager, or his/her designated personnel, shall set forth the denial in writing, including information on any additional evidence which might be needed to approve such application, and provide written notice to the applicant of their right to re-submit the application at a later date or to appeal the decision in accordance with § 9 of this ordinance.
- 5.09. Application for enrollment will not be accepted if there is a pending investigation on related DIB

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

**§ 6 - Membership by Tribal Adoption**

- 6.01. Upon receipt of the application for adoption the Membership Department Manager, or his/her designated personnel, will assign the aforementioned control number.
- 6.02. The application for adoption will be screened to ensure that the application meets the following criteria:
- (a) ~~[Reserved] The applicant must verify residency and be domiciled in the six-county service area with substantiated proof of residency. Proof of residency may include, but is not limited to, the showing of a current driver's license, rental lease, utility bills, or other creditor or government documents listing residency within the six-county service area. Post office boxes are not acceptable as proof of residency.~~
  - (b) The applicant must be a one-fourth (1/4) Indian blood degree as established by a certificate degree of Indian blood provided by the Bureau of Indian Affairs or a certification by a United States Federally Recognized Indian Tribe. ~~For purposes of this Subsection 602(b), applications will not be accepted until specific Tribal Council Resolution invoking this provision for purposes of Tribal adoption.~~
  - (c) The applicant is one-fourth (1/4) Indian blood degree of which at least one-eighth (1/8) must be traced to the ~~Historic Grand Traverse Bands~~ Michigan Ottawa and Chippewa who are listed on the Durant Roll. ~~For purposes of this Subsection 602(c), an applicant may apply after September 1, 2006, for enrollment under this provision.~~
  - (d) There must be substantial community ties between the applicant and the GTB Tribal community.
- 6.03. The Tribal Council shall have the authority to approve or reject an application for adoption at their discretion by a majority vote of the Tribal Council.
- 6.04. The Tribal Council will provide a signed resolution to the Membership Department Manager for approval or rejection of an application for adoption.
- 6.05. If the application for adoption has been rejected for enrollment, the Membership Department Manager, or his/her designated personnel, shall set forth the denial in writing, including information on any additional evidence which might be needed to approve such application for adoption, and provide written notice to the applicant. The applicant shall not have a right to appeal to Tribal Court.
- 6.06. In no event shall the provisions of this section apply to adoptions of adults by members eighteen (18) years old or older. In any event, § 4.03, Membership Rights of Children Who Have Been Adopted, shall control the DIB of adult adoptees.

6.07. All Tribal adoptions, regardless of the time period in which said adoptions were made, shall comply with § 6.02.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

## § 7 - Disenrollment

7.01. Grounds for Disenrollment.

- (a) Any Tribal member who is an enrolled member of any other federally recognized Indian Tribe, Band, or Group subsequent to his/her enrollment with the Tribe shall be disenrolled.
- (b) A Tribal member may be disenrolled upon determination that the enrollment was procured by fraud, was not supported by substantial evidence on the record, or, in the light of substantial new evidence, was clearly erroneous.
- (c) Additionally, a Tribal member may be disenrolled based upon a prior determination by the Bureau of Indian Affairs holding that the person was not eligible for enrollment.

7.02. Procedure for Dual Certification for Enrollment and Disenrollment. The B.I.A. certification function of enrollment and disenrollment decisions of the Tribe under the authority of 25 U.S.C. § 476 and 25 CFR 61 is an inherent function if the enrollment or disenrollment is a modification of the Base Roll established by the Secretary of the Interior for the Tribe. Therefore, any enrollment or disenrollment decision that is a modification of the Base Roll shall not be final until accepted or rejected by the Secretary of the Interior, 25 U.S.C. § 476.

7.03. Procedure for Disenrollment. Upon receiving notice that one (1) or more of the grounds for disenrollment exists, the Membership Department Manager shall:

- (a) Contact the Tribal member, or the Tribal member's legal parent or guardian, and inform such Tribal member that he/she will be disenrolled, the reason for such Tribal member's disenrollment and provide notice of the opportunity to provide arguments and evidence why he/she should not be disenrolled.
- (b) The notice required under paragraph (a) above shall be mailed to such Tribal member's last known address by registered mail, return receipt requested, at least thirty (30) calendar days prior to disenrolling such Tribal member.
- (c) If, after thirty (30) days, there is either no response or a nonmeritorious response is given, and the ground(s) for disenrollment is verified, then the Membership Department Manager shall submit a Certification for Disenrollment to the Tribal Council along with a written report.

- (d) If the Tribal Council determines that the disenrollment report is correct, the Certificate for Disenrollment shall be approved by the Tribal Council; provided, however, that such approval is done by a majority vote of all seven (7) Tribal Councilors, including the Tribal Chairman, by individual roll call vote.
  - (e) Upon approval of a Certificate for Disenrollment, the Membership Department Manager shall provide the affected Tribal member, or such Tribal member's legal parent or guardian, notice of the Tribal Council's action and inform such Tribal member of the appeals procedure pursuant to § 9 of this ordinance.
  - (f) A Tribal member who has been disenrolled because it has been verified that such Tribal member has applied for and become an enrolled member of another federally recognized Indian Tribe, Band or Group, that person shall be permanently banned from reapplying for membership with the Tribe.
- 7.04. Pursuant to the Revenue Allocation Ordinance, 18 GTBC § 1601 et seq., a Tribal member may challenge the validity of another Tribal member's status in writing by certified letter stating the specific ground(s) as noted in 18 GTBC § 1605(d)(1). The Membership Department Manager, upon written receipt, will initiate research on any such cited cases. In the event that there are erroneously enrolled Tribal members found as a result of another Tribal member's challenge, the above outlined process for disenrollment will be enforced.
- 7.05. The letter of disenrollment to the disenrolled person shall contain detailed information and instruction on the probable eligibility, if applicable, for the disenrolled person to enroll in other federal tribes.
- 7.06. In the event that a minor child is eligible for enrollment in another federally recognized tribe and the minor child is subject to a divorce decree, disposition of disenrollment based on dual enrollment shall not be filed until a final divorce decree is entered regarding the child's Tribal enrollment.
- 7.07. Upon disenrollment a minor child shall be deemed by the Tribal Council to have a present perfected interest in the minor's per capita gaming account and the minor's land claims account; provided, however, that distributions will not occur until the minor attains the age of eighteen (18) years for his/her land claims distribution and the designated age of distribution as determined by the Revenue Allocation Ordinance, 18 GTBC Chapter 16, and the trust documents establishing the per capita trust.
- 7.08. Upon the disenrollment of a Tribal member the Membership Department Manager, or his/her designated personnel, shall provide written notification to all Tribal Department Managers, with the concurrence of the Tribal Manager, of the eligibility status of the disenrolled person's Tribal membership.
- 7.09. In the event there is a class of members that have parallel issues in their DIB, the enrollment office shall use a recognized random selection process to establish the sequence of individual disenrollments.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319; as amended by Tribal Act #07-25.1853, enacted by Tribal Council in Special Session on September 26, 2007.

### § 8 - Relinquishment of Membership

8.01. Relinquishment Defined. "Relinquishment" is an act by which a Tribal member voluntarily and officially gives up the right of Tribal membership. It is an action that can only be taken by the Tribal member, or the Tribal member's legal parent or guardian and, additionally, must be acknowledged by the Membership Department Manager. Due to the bilateral relationship between the Tribal member and the Tribe, relinquishment of membership shall only become effective after the offer of relinquishment and the acceptance of the relinquishment by the Tribal Council.

8.02. Relinquishment Procedure. A Tribal member may relinquish membership by:

- (a) Submitting a written signed, and notarized statement to the Membership Department Manager requesting that his/her name be removed from the membership roll.
- (b) The only acceptable notice of relinquishment is a signed, notarized letter of relinquishment.
- (c) Once an individual has relinquished his/her membership, that individual shall be permanently banned from reapplying for enrollment with the Tribe.
- (d) Membership of a minor or other incompetent Tribal member may be relinquished by the Tribal member's legal parent or guardian; however, in such an event, a minor may reapply for enrollment upon reaching the age of eighteen (18) provided that they meet the minimum requirements established in this ordinance. Additionally, any incompetent person may reapply for enrollment upon verification of competency provided that they meet the minimum requirements established in this ordinance.
- (e) The Membership Department Manager may not refuse a competent Tribal member's request to relinquish his/her membership, if such Tribal member's request is supported by a written, signed, and notarized letter making that request.
- (f) All acceptable relinquishments shall be responded to in written form within ten (10) calendar days by the Membership Department Manager as received, including:
  - (1) The date of the Tribe's acknowledgement of the relinquishment, which shall be the date that the Tribal Council formally accepted the relinquishment.

8.03. Upon the relinquishment of a minor child shall be deemed by the Tribal Council to have a present perfected interest in the minor's per capita gaming account and the minor's land claims account; provided, however, that distributions will not occur until the minor attains

the age of eighteen (18) years for his/her land claims distribution and the age of twenty-one (21) years for his/her per capita gaming account distribution.

- 8.04. Upon formal acceptance of the relinquishment by the Tribal Council the Membership Department Manager, or his/her designated personnel shall provide written notification to all Tribal Department Managers, with the concurrence of the Tribal Manager, of the eligibility status of the relinquished person's Tribal membership.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### § 9 - Appeal of Enrollment Decisions

- 9.01. All appeals of decisions of the Membership Department Manager and/or Tribal Council shall be heard by the Tribal Court (excluding applications for adoption).
- 9.02. Any person, including the parent or legal guardian of a minor or incompetent, who has been rejected for enrollment (excluding applications for adoption) or subject to disenrollment or DIB changes has a right to appeal the decision of the Tribal Council.
- 9.03. The applicant appealing a decision of either the Tribal Council or Membership Department Manager shall bear the burden of proof on appeal.
- 9.04. All appeals shall be filed with the Tribal Court. An applicant shall have sixty (60) calendar days from the date of the adverse decision to file an appeal with the Tribal Court.
- 9.05. Parties may submit any additional supporting evidence or documents which were not previously furnished to the Tribal Council and may include a copy of or reference to applicable Tribal records or record of the Bureau of Indian Affairs which relate to the applicant's eligibility for enrollment under § 4 of this ordinance or their DIB as referenced in § 2.01(e).
- 9.06. The Tribal Court shall permit all parties to examine records submitted on appeal and to provide testimony or other evidence that would support or refute the application for membership or continuance of membership. Standards of review by the Tribal Court are the following:
- (a) De novo. Meaning a complete review of the record, discovery, trial or contested questions of fact or law.
  - (b) Limited Review of Facts. Meaning:
    - (1) beyond a reasonable doubt;
    - (2) clear and convincing evidence standard; or
    - (3) preponderance of the evidence (51% or more).

- (c) Administrative Review.
  - (1) Upheld so long as factual issues decided are not decided in a manner that is arbitrary and capricious; or
  - (2) fact issues must be supported by the record.
- (d) Legal issues are always subject to review.

9.07. The sole issues on appeal will be to determine if the Tribal Council or Membership Department Manager made an error in rejecting an application for enrollment, disenrolling the applicant, or wrongfully changing their DIB. The burden of proof shall remain with the individual affected by the decision of the Tribal Council.

9.08. A disenrollment shall not be effective until the final disposition of the Tribal Court appeal.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

#### **§ 10 - Confidentiality**

10.01. Application of Privacy Act. To the extent practical, the Membership Office will use the legal standards, case law, and regulations developed by The Privacy Act of 1974, 5 U.S.C. § 552(a) to govern the development of GTB confidentiality and privacy procedures and as rules for GTB decisions.

10.02. Records subject to Confidentiality Provisions. As used in this ordinance "Records" or "Membership files" mean any item or information about or collected from individuals, including, but not limited to, birth certificates, genealogy reports, or other documents that contain the individual's name, or identifying particulars assigned to the individual, such as photographs, which is collected for the purpose of determining the eligibility for enrollment in the Tribe of an individual or members of an individual's family.

10.03. Use of Information; Advice to Individuals.

- (a) Each Tribal member who supplies or is asked to supply information to the Membership Office regarding him/herself or his/her family shall be sent a notice informing him/her of the use or uses to which the information may be put, and what the consequences, if any, are of not supplying the information.
- (b) At a minimum, the notice to an individual must state:
  - (1) The authority which authorizes the solicitation of the information and that the disclosure of such information is voluntary;
  - (2) That the principal purpose of such information is to determine the eligibility of that Tribal member and/or his/her relations for enrollment into the Tribe;



- (3) That the information may also be used to determine the eligibility of that Tribal member, and/or his/her relations, for benefits available from the state or federal government which are available to Tribal members with certain Indian blood quantum;
- (4) The effect on the Tribal member or his/her relations, if any, of not providing all or part of the information requested by the Membership Office or Tribal Council; and
- (5) The steps that will be taken to keep such information confidential and the procedure for authorizing disclosure of information to individuals not authorized to access such information under this ordinance.

#### 10.04. Assuring Integrity of Records.

- (a) Records Maintained in Manual Form. When maintained in manual form, enrollment files shall be maintained subject to the following safeguards affording minimum comparable protection:
  - (1) Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized personnel.
  - (2) During work hours:
    - (A) the area in which records are maintained or regularly used shall be occupied by authorized personnel; or
    - (B) access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.
  - (3) During non-working hours, access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.
- (b) Records Maintained on Computer. When maintained in computer form, enrollment files and records shall be maintained subject to minimum safeguards based on those recommended in the National Bureau of Standards booklet "Computer Security Guidelines for Implementing the Privacy Act of 1974" (May 30, 1975), and any supplements thereto, which are adequate and appropriate in assuring the integrity of records in the system.

#### 10.05. Conduct of Employees.

- (a) Records contained in individual enrollment files may only be handled and reviewed by the following individuals:
  - (1) Membership Office staff;

- (2) Bureau of Indian Affairs;
  - (3) Members of the Tribal Court reviewing or hearing an appeal regarding a particular enrollment application or file; and
  - (4) The Tribal Council and/or its legal representative.
- (b) Handling Records. Employees or members of the Tribal Court whose duties require the handling of records subject to this ordinance shall, at all times, take care to protect the integrity, security and confidentiality of these records.

#### 10.06. Disclosure of Records.

- (a) No records contained in an individual Tribal member's enrollment file may be disclosed by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.
- (b) Specific Exceptions. The prohibition contained in paragraph (a) above does not apply where the record would be:
- (1) a list of Tribal member names and addresses shall be included in a directory prepared by the Membership Office in accordance with § 11 of this ordinance. The directory of Tribal member names and addresses may be provided to any Tribal Member requesting a copy of such a Directory;
  - (2) provided to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;
  - (3) provided to a recipient who has provided the Membership Department Manager, or other person responsible for the record system, with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the records are to be transferred in a form that is not individually identifiable;
  - (4) provided to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual; or
  - (5) provided pursuant to an order of the Tribal Court or a court of competent jurisdiction upon a showing of good cause.
  - (6) a copying fee shall be added in accord with a fee schedule set by the Tribal Council.

#### 10.07. Accounting for Disclosures.

- (a) Maintenance of an accounting. An accounting shall be made whenever a record is disclosed to any person, or to another agency, under any of the specific exceptions provided by § 10.06. The accounting shall record:
  - (1) the date, nature, and purpose of each disclosure of a record to any person or to another agency; and
  - (2) the name and address of the person or agency to whom the disclosure was made.
- (b) Access to Accountings. Accountings of all disclosures of a record shall be made available to the individual to whom the record relates at his/her request.

#### 10.08. Request for Access to Records.

- (a) A request for access to records contained in Membership files shall be made in writing to the Membership Department Manager or his/her designee.
- (b) Form of decision:
  - (1) No particular form is required for a decision granting access to records. The decision shall, however, advise the individual requesting the record as to where and when the record is available for inspection. If fees are due for collecting and/or copying records, the individual shall also be notified of the amount of fees due.
  - (2) A decision denying a request for access, in whole or part, shall be in writing and shall state the basis for denial of the request. The decision shall also contain a statement that the denial may be appealed to the Tribal Court. The standard of review used by the Tribal Court shall be administrative review as defined in § 9.06(c) herein. This appeal must be filed no later than twenty (20) calendar days after the date of the denial.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### § 11 - Preparation of Tribal Member Directory

11.01. The Membership Department Manager is authorized to prepare a directory of Tribal Members. The directory shall include the name and address of each member of the Tribe.

11.02. A copy of the Tribal Member Directory shall be provided to any Tribal member who requests a copy; provided, however, that no such list shall be provided for purposes of commercial marketing. The Membership Department Manager, or his/her designee, shall keep a record of the name and address of each person to whom a directory has been provided.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### **§ 12 - Tribal Identification Cards**

12.01. Tribal Identification Cards. Tribal Identification Cards are the sole and exclusive property of the Tribe and represent the political relationship between the Tribe and the individual Tribal member. The Tribe, acting through the Tribal Council, shall control the terms, conditions, uses and expirations of the Tribal Identification Cards by Tribal Council resolution passed from time-to-time in accord with the governance needs of the Tribe.

12.02. Physical Address. Each Tribal member, as a condition of enrollment, is required to maintain a physical address with the Membership Office that reflects actual residence regardless of the Tribal member's mailing address.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.

### **§ 13 - Severability**

13.01. If any section, 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.

History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.