Statutes of the Grand Traverse Band of Ottawa and Chippewa Indians

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GRAND TRAVERSE BAND CODE

Title 1

LEGISLATIVE BRANCH

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CHAPTER 1
Legislative Procedures

§ 101. Statement of Purpose. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

The purpose of this ordinance is to define the terms of Article III, Section 5(e), and Article IV, Section 1(c), of the Tribal Constitution in order to provide forms and procedures for the enactment of Tribal ordinance law by the Tribal Council acting in its legislative capacity.

§ 102. Definitions. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) "Bill". The draft of a proposed law from the time of its introduction in a legislative body before it is enacted into law by vote of the legislative body. An "Act" is the appropriate term for it after it has been acted on by, and passed by, the legislative body.

(b) "Committee". A person, or an assembly or board of persons, to whom the consideration, determination, or management of any matter is committed or referred, as by a court or legislature. An individual or body to whom others have delegated or committed a particular duty, or who have taken on themselves to perform it in the expectation of their act being confirmed by the body they profess to represent or act for. In legislatures, a standing committee considers all bills, resolutions, and other items of legislative business falling within the category of matters over which it has been given jurisdiction. A special (or select) committee investigates and reports on specific matters and terminates when that function has been rendered.

(c) "Journal of Proceedings". The legislative history of bills and ordinances.

(d) "Motion". Executive action of the Tribal Council directing that an act be committed or existing actions be stopped.

(e) "Ordinance". A rule established by authority; a permanent rule of action; a law or statute. In its most common meaning, the term is used to designate the enactments of the legislative body of the Tribal Council.

(1) "Compiled Ordinances". Codified ordinances at Large by subject matter that shall be known as the Grand Traverse Band Code referenced by a logical system of numbering to be determined by the codifiers or compilers of the ordinances at large.

(2) "Ordinances at Large". General body of ordinances listed in a chronological manner.

(f) "Publication". The posting of a bill in a Tribal public place for review by Tribal members.

(g) "Resolution". Formal executive action of the Tribal Council certifying the action and intent of the Tribal Council.

(h) "Tribal Council executive action". The Tribal Council action consisting of motion or resolution pursuant to Article III, Section 5(e) of the Tribal Constitution.

(i) "Tribal Council legislative action". The Tribal Council action consisting of the passing of an ordinance pursuant to Article III, Section 5(e) of the Tribal Constitution.

§ 103. Legislative Session of the Tribal Council. [History: Legislative Procedures Act, adopted by

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Tribal Council on August 21, 1996.]

(a) The Tribal Council shall act in its legislative capacity in a designated process known as a legislative session.

(b) A legislative session shall be a designated portion of a regular or special Tribal Council meeting consistent with the notice provisions of the Tribal Constitution.

(c) Alternatively, the Tribal Council shall designate and dedicate a regular or special meeting solely to legislative matters.

§ 104. Proposed Legislation. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) Any Tribal Councilor may offer proposed legislation which shall be designated as a bill for purposes of review and comment by the committee structure of the Tribal Council and review and comment by Tribal members.

(b) Proposed bills shall be referred to a legislative drafting committee that is either ad hoc or standing.

(c) The legislative drafting committee shall take direction from the Tribal Councilor or Councilors who are sponsoring the proposed bill on the intent, content, and language of the proposed bill.

§ 105. Tribal Council Review of Proposed Legislation. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) Once a proposed bill is completed by the Tribal Councilor or Councilors and the legislative drafting committee it shall be submitted to the Tribal Council for review and comment.

(b) The Tribal Council shall have 30 days to submit reviews and comments, markup, on the proposed bill.

§ 106. Tribal Membership Review and Comment. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

Once the proposed language is agreed to by the Tribal Council, the bill shall be published in a public place for review and comment by Tribal members for a period not less than 30 days.

§ 107. Amendment/Passage of Bills. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

The bill shall be amended or passed in light of the above §§ 104, 105, and 106 process.

§ 108. Effective Date of New Laws. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) Immediately. The Tribal Council may designate a proposed ordinance as an emergency and suspend the above rules upon a finding that legislative action is immediately necessary to protect the health, welfare, public security or economic status of the Tribe.

(b) A new law may be given immediate effect if approved by four members of the Tribal Council.

(c) A new law shall become effective in all other instances 30 days after enactment

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§ 109. Committees; Record of Votes; Public Inspection; Notice of Hearings. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) The Tribal Council may establish committees for the efficient conduct of its business.

(1) Said committees may conduct public hearings to assist the committees in decision making.

(2) On all actions on bills and resolutions in each committee, names and votes of members shall be recorded for public inspection.

(3) Notices of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

(b) The public hearings shall be open to all Tribal members, Tribal administration, official Tribal committees, and unofficial Tribal committees and organizations who may offer testimony in support of or in opposition to proposed legislation.

§ 110. Records of Votes on Election and Appointments. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

All elections and all votes on appointments shall be published by vote and name in the journal.

§ 111. Journal of Proceedings; Record of Votes/Dissents. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996.]

(a) The Tribal Council, while in legislative session shall, keep a journal of its proceedings and publish the same unless security otherwise requires.

(b) The record of the vote and name of the members voting on any question shall be entered in the journal at the request of two Tribal Councilors.

(c) Any Tribal Councilor may dissent from and protest against any act, proceeding or resolution which he/she may deem injurious to any person or the Tribe and have the reasons for his/her dissent entered into the journal.

§ 112. Codification of Tribal Law. [History: Legislative Procedures Act, adopted by Tribal Council on August 21, 1996, as amended by Tribal Act #99-17.733, enacted by Tribal Council on May 18, 1999.]

(a) The Secretary of the Tribal Council shall be responsible for codifying laws enacted by the Tribal Council in legislative session, on an annual basis (calendar year).

(b) Such laws shall be known as Tribal Acts and numbered consecutively for the year in which said laws were passed and cited as "Tribal Act _____ of 19 _____."

(c) Said Tribal Acts shall be further codified by category and published annually.

(d) Such codification shall be known as the Grand Traverse Band Code (GTBC) and shall be cited as "[title #] GTBC § [section #]".

§ 113. Effective Date. [History: Legislative Procedures Act, adopted by Tribal Council on August

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21, 1996.]

The effective date of this Act is September 20, 1996.

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CHAPTER 2
Committee Procedures

§ 201. Short Title, Purpose and Definitions. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Short Title. This Act shall be entitled "The Committee Procedures Act".

(b) Purpose. The Committee Procedures Act shall be liberally interpreted and construed to fulfill the following expressed purposes:

(1) To provide for the organization of Tribal committees,

(2) To provide definitions for the different categories of Tribal committees,

(3) To provide for classifications of committee roles in Tribal government,

(4) To provide for the delineation of the powers and duties of Tribal committees,

(5) To provide for compensation for committee members,

(6) To provide for clarification regarding staff participation in the committee structure.

(c) Definitions. As used in this Act:

(1) "Constitutional Committee": A Tribal committee mandated or implied in the GTB Constitution or so designated by the Tribal Council.

(2) "Program Committee": A Tribal committee mandated by various federal or state grants or contracts.

(3) "Community Action Committees": Unofficial, non-Tribal committees organized by Tribal community members outside the purview of the Tribal government.

(4) "Ad Hoc Committee": Committees authorized by Tribal Council for special, singular purpose that dissolve upon completion of its assigned mission.

(5) "Members at Large": Tribal community members not members of the Tribal Council or administrative staff.

(6) "Staff Members": Employees of Grand Traverse Band whose employment is directly related to Committee.

§ 202. Creation of Tribal Committees. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

All Tribal Committees shall be created by Tribal Council resolution.

§ 203. Authorization of Tribal Committees. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

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(a) Constitutional committees shall be authorized by expressed or implied language in the GTB Constitution.

(b) Program committees shall be authorized by the Tribal Council through its approval of the specific Tribal program.

(c) Ad hoc committees shall be authorized by Tribal Council Resolution.

§ 204. Duration of Tribal Committees. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Constitutional Committees shall be permanent in nature.

(b) Program committees shall terminate upon expiration of the underlying program's grant or contract.

(c) Ad hoc. committees shall terminate upon completion of their specific task, or a time certain, as detailed in the Tribal Council resolution creating the ad hoc committee.

§ 205. Authority of Committees. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Constitutional committees shall meet on a regular basis, at least quarterly, to gather and/or disseminate information and to make recommendations to the Tribal Council or Tribal Court to assist the Council and the Court in carrying out their constitutional mandates.

(b) Program Committees shall meet as required by the program to assist the staff in carrying out its program mandate.

(c) Ad hoc committees shall meet as needed to achieve the goals and objectives as outlined in the Tribal Council resolution creating the ad hoc committee.

§ 206. Composition of Tribal Committees. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994; Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995; and Tribal Act #01-19.941, enacted by Tribal Council via telephone poll on February 6, 2001.]

(a) Constitutional committees shall be composed of not less than four or more than 10 members.

(1) At least one member shall be a Tribal Council member.

(2) A Tribal Council member shall serve as chair of constitutional committees.

(3) Members must be appointed by the Tribal Council and shall serve at the pleasure of the Tribal Council.

(4) The Tribal Council and/or committee members shall solicit members to serve on committees in the GTB newsletter and by posting in Tribal Buildings.

(5) A Tribal Council member who loses an election, is recalled, resigns or is removed from office, shall relinquish his or her membership on Tribal committees.

(b) Program committees shall be of a size prescribed in the program's grant or contract.

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(1) Members shall be appointed by Tribal Council upon recommendation from program staff.

(c) The composition of the Appropriations Committee shall be governed by the Appropriations Act.

§ 207. Rules of Procedure, Notice. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Committees shall adopt rules of procedures for the conduct of their business subject to the approval of Tribal Council.

(b) Notice requirements for committee meetings shall comport with notice provisions of the GTB Constitution, Article III, Section 5.

§ 208. Recommendations, Proposed Legislation. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Proposed legislation shall originate with or be referred to the appropriate constitutional committee which shall hold open meetings to discuss the proposed legislation.

(b) The committee shall then make written recommendations to the Tribal Council.

(1) Any committee member who disagrees with the committee's recommendation may make a written minority report to the Tribal Council, outlining their opposition to the committee's recommendation.

§ 209. Open Meetings, Committee Records. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Committee meetings shall be open to the membership pursuant to Article III, Section 5(d) of the GTB Constitution except in cases involving Indian Child Welfare matters, matters of confidentiality, items covered by the Privacy Act, personnel matters and legal matters.

(b) Committee records shall be open to the membership pursuant to Article III, Section 4 of the GTB Constitution except in cases involving matters of confidentiality, the Privacy Act, Indian Child Welfare matters, personnel matters or legal matters.

§ 210. Application of Indian Civil Rights Act of 1968. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

TRIBAL COMMITTEES SHALL COMPLY WITH THE PROVISIONS OF THE INDIAN CIVIL RIGHTS ACT OF 1968, 25 U.S.C. §§ 1301 — 1303.

§ 211. Compensation, Stipends. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Tribal Council members appointed to Constitutional committees who serve as committee chairs, shall

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receive a stipend for attendance at committee meetings in an amount as pursuant to policy, established by the Tribal Council.

(b) Members at large and Tribal Council members not serving as chairperson shall receive a stipend equal to 1/2 that of the Tribal Council members serving the committee as chairperson.

(c) Program Committee members shall not receive stipends.

(d) Ad hoc committee members may receive stipends if authorized by the Tribal Council resolution creating the ad hoc committee.

§ 212. Staff Participation. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

(a) Staff members whose work is directly related to the work of a committee, may be given release time to attend committee meetings during working hours, with the prior approval of the Tribal Manager and the Personnel Director.

(b) Staff members whose attendance is required at committee meetings before or after work hours, may arrange for compensation time (flex time) with the prior approval of the Tribal Manager and Personnel Director.

§ 213. Tribal Preference. [History: Tribal Act #92-10.85, enacted by Tribal Council on December 15, 1992. As amended by Tribal Act #94-12.184, enacted by Tribal Council on November 15, 1994, and Tribal Act #95-13.232, enacted by Tribal Council on April 18, 1995.]

In appointing committee members, preference shall be given first to Tribal members; Native American community members; Native Americans.

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CHAPTER 3
Tribal Council Meetings Ordinance

§ 301. Short Title. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

This Ordinance shall be called the Tribal Council Meetings Ordinance.

§ 302. Purpose. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

The purpose of this ordinance is to give definitions to Tribal Constitutional terms governing the legislative and administrative procedures governing the implementation of executive and legislative power contained in Article III pursuant to the authority in Article IV, Section 1(c). This ordinance shall serve as a procedural guide for the implementation of the executive and legislative power of the Tribal Government.

§ 303. Definitions. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997; and amended by a motion to approve Tribal Council Resolution #19-37.3082 at a Tribal Council Regular Session on September 18, 2019.]

(a) "Affairs of the Tribe" means a general annual report of the Tribe covering all major financial statements of the Tribe.

(b) "Annual meeting" means a yearly Tribal membership meeting at which all the financial statements of the Tribe are presented pursuant to Article III, Section 7 of the Tribal Constitution.

(c) "Call of meeting" means the person or persons who is properly authorized to bring the Tribal Council meeting into existence.

(d) "Closed meeting" means a meeting closed to address personnel or legal matters pursuant to Article III, Section 4(d), of the Tribal Constitution.

(e) "Closed Session" means a meeting closed to address personnel or legal matters pursuant to Article III, Section 4(d), of the Tribal Constitution.

(f) "Council Executive Officers" means the Tribal Chair, Tribal Vice Chair, Tribal Treasurer, and Tribal Secretary.

(g) "Council Committee" means an established committee by motion of the Tribal Council to address specific delegated issues of the Tribe.

(h) "Directive" means an oral or written statement of the Tribal Council to Tribal management requesting that an action be taken or an administrative action stop.

(i) "Emergency meeting" means action taken by the Chairperson calling a Council meeting under the authority of Art. III, Section 5(d) for the specific purpose of property protection.

(j) "Executive functions" means the Tribal Council acting by motion or resolution to implement an ordinance, legislative law, or administrative practices.

(k) "General reason for no record" means a statement entered into the Tribal Council record expressing a rationale in the form of a motion stating the subject matter to be addressed in closed session at which no record is kept, pursuant to Article III, Section 5(d) of the Tribal Constitution.

(l) "Legal matters" means all matters of the Tribe wherein the Tribe is a party, either directly or indirectly, to a legal proceeding in federal, state, or Tribal court or an administrative forum addressing

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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 shall be discussed by the Tribal Council in closed session pursuant to Article III, Section 5(d)(1) of the Tribal Constitution.

(m) "Legislative functions" means the passing of an ordinance or the promulgation of rules.

(n) "Majority vote" means a vote of four or more Tribal Councilors on a motion, ordinance, or resolution, with the Tribal Chair voting only to break a tie vote. Tribal committees may adopt voting requirements subject to the approval of the Tribal Council (GTB Committee Procedures Act, 1 GTBC § 207).

(o) "Meeting" means a prearranged gathering of members of a public body for the purpose of deliberating on public business and taking official action; any kind of gathering convened to discuss public business, in person, by telephone, or by other means of communication; an official meeting is any meeting at which a quorum is present and official or public business is discussed; provided that meetings of a gathering of members of a governmental body for purely ministerial or social purposes, when there is no discussion of policy or no intent to avoid the purposes of the open meetings standard, does not constitute a meeting for purposes of this ordinance.

(p) "Motion" means a proposal by which the Tribal Council expresses an opinion, takes certain action, or orders something to be done.

(q) "Notice" means a written document posted in the chief administrative building of the Tribe informing the Tribal membership of a fact. Notice is subdivided into actual notice, constructive notice, express notice, implied notice, personal notice, public notice and reasonable notice.

(r) "Notice of Meeting" means the official posting of an agenda of a future Tribal Council meeting.

(s) "Open meeting" means a meeting open to Tribal membership pursuant to Article III, Section 5(d) of the Tribal Constitution.

(t) "Open session" means that portion of a meeting that is open to Tribal membership pursuant to Article III, Section 5(d) of the Tribal Constitution.

(u) "Ordinance" means a Tribal law duly enacted by the Tribal Council.

(v) "Personnel matters" means those issues dealing with Tribal personnel that may be discussed in closed session pursuant to Article III, Section 5(d)(1) of the Tribal Constitution.

(w) "Polling" means a vote of the Tribal Council not taken during a duly called Tribal Council meeting. Polling is only permitted on matters that have already been considered by the Tribal Council in a properly called Tribal Council meeting.

(x) "Posting" means an official notice of the time, place, date and agenda of a future Tribal Council meeting which has been distributed to Tribal offices for purposes of placing in a public area.

(y) "Preservation" means Council action that is necessary within less than 72 hours to preserve property.

(z) "Property" means real, personal, intangible financial instruments or records related to the specific Council agenda emergency meeting item called by the Chairperson noticed as property preservation or protection under Art. III, Section 5(d).

(aa) "Protection" means Council action by motion or resolution giving specific direction to a delegated tribal government administrator, entity or state, federal administrator or private commercial

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administrator or interest directing the disposition of real, personal, intangible financial instruments or records.

(bb) "Quorum" means the necessary minimum amount of Councilors present that official business takes place pursuant to Article III, Section 6 of the Tribal Constitution.

(cc) "Record" means the minimum, resolution, ordinances of the Tribal Council.

(dd) "Regular meeting" means a Tribal Council meeting called pursuant to Article III, Section 5(a) of the Tribal Constitution.

(ee) "Resolution" means an official action of the Tribal Council under the following circumstances, resolutions are either required or appropriate:

(1) If the matter is one that the statute, charter, or by-laws require a resolution;

(2) If a certificate showing that the authority granted by Tribal members or the Tribal Constitution to the Tribal Council or committee of the Tribal Council to perform a certain act is required to be filed, or likely to be required at some future time;

(3) If the matter regulates the management of the Tribe or the subdivision of the Tribe and is meant to be permanent until changed;

(4) If the matter is one of importance;

(5) If the matter is one that is likely to be referred to from time to time; and

(6) If the matter consists of amendments to the charter or by-laws of subordinate Tribal entities.

(ff) "Special meeting" means a meeting called pursuant to Article III, Section 5(b) of the Tribal Constitution.

(gg) "Tie vote" means a vote of the Tribal Councilors during a duly called Tribal Council meeting whereby an even number of votes for and against result in the Chair voting to break the tie vote pursuant to Article III, Section 5(e)(3) of the Tribal Constitution.

(hh) "Tribal Chair" means the Tribal member elected to the office of Tribal Chair pursuant to Article III, Section 3(a); also a Tribal Executive Officer.

(ii) "Tribal Committee Chair" means that Tribal Councilor who is appointed to a Tribal Council Committee by the Tribal Chair pursuant to Article III, Section 3(a)(3) of the Tribal Constitution.

(jj) "Tribal Council" means the seven elected Tribal members elected to office, consisting of the Tribal Chair and six Tribal Councilors, pursuant to Article III of the Tribal Constitution.

(kk) "Tribal Council action" means an official action taken by the Tribal Council at a duly called meeting in exercising its powers pursuant to Article IV of the Tribal Constitution.

(ll) "Tribal Councilor" means an elected Tribal member to the Tribal Council who is not the Tribal Chair.

(mm) "Tribal Executive Committee" means a committee of the Tribal Executive Officers consisting of only those elected Tribal officials.

(nn) "Tribal Member" means a person who is duly enrolled with the Tribe pursuant to Article II of the Tribal Constitution.

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(oo) "Tribal Membership Meeting" means an annual meeting of the Tribal membership to inform members of the status of the Tribe pursuant to Article III, Section 7 of the Tribal Constitution.

(pp) "Tribal records" means the records of the Band which are the exclusive property of the Tribe pursuant to Article III, Section 4 of the Tribal Constitution.

(qq) "Tribal Secretary" means the Tribal Councilor nominated and appointed by fellow Tribal Councilors to maintain the minutes of Tribal Council meetings, maintain the Tribal Seal, and other duties pursuant to Article III, Section 3(d) of the Tribal Constitution; also a Tribal Executive Officer.

(rr) "Tribal Treasurer" means the Tribal Councilor nominated and appointed by fellow Tribal Councilors to monitor fiscal matters, submit financial reports, and other duties pursuant to Article III, Section 3(c) of the Tribal Constitution; also a Tribal Executive Officer.

(ss) "Tribal Vice Chair" means the Tribal Councilor nominated and appointed by fellow Tribal Councilors to perform duties of the Tribal Chair in the Chair's absence, assume responsibility for functions delegated by the Tribal Chair, and other duties pursuant to Article III, Section 3(b) of the Tribal Constitution; also a Tribal Executive Officer.

(tt) "Waiver of notice" means the act of intentionally relinquishing or abandoning the notice requirement for purposes of an emergency meeting.

§ 304. Location of Tribal Council Meeting. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

(a) The Tribal Council meeting shall only take place within the federally proclaimed reservation located in Peshawbestown, Michigan, or on land held in trust by the United States government for the Grand Traverse Band.

(b) The Tribal Council shall pass a resolution which shall be published for Tribal members stating the time and place of the Tribal Council regular sessions.

§ 305. Calling a Meeting. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997; and amended by a motion to approve Tribal Council Resolution #19-37.3082 at a Tribal Council Regular Session on September 18, 2019.]

(a) The call for a Tribal Council meeting is the exercise by the proper person or persons of the power to bring the Tribal Council meeting into existence.

(b) This call consists of a written direction to the Tribal Council Secretary or other officers authorized to contact the Tribal members. For purposes of this ordinance, the following meeting calls are authorized:

(1) Tribal Council shall call meetings at least once every three months by resolution establishing the time and place of the meeting.

(2) Tribal Chair may call a Tribal Council meeting at his or her discretion.

(3) Tribal Chair shall call a meeting upon the written request of two Tribal Councilors.

(4) The Tribal Council Secretary shall call a meeting upon the petition of 10% of the registered Tribal voters, subject to the verification of the signatures by the GTB Election Board.

(c) The Chairperson has the authority to call an emergency meeting of the Tribal Council on less than 72

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hours' notice for the specific purpose of preserving or protecting property of the Tribe in accord with the definitional section in Section 303.

§ 306. Conduct of Tribal Council Meetings. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

(a) All Tribal Council meetings shall be conducted according to the rules of parliamentary procedure with Robert's Rules of Order as a guide.

(b) All issues, motions, ordinances, or resolutions shall be passed by majority vote. The Chair shall only vote to break a tie.

(c) In the event the Tribal Council addresses an issue in its deliberative legislative capacity or its administrative executive capacity, and the appropriate resolution is not available for action, the Tribal Council may subsequently enact a motion or resolution by the polling procedures identified in § 310 of this ordinance.

§ 307. Classification of Tribal Council Meetings, Authority and Power to Conduct, and Notice Requirements. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

The meetings of the Tribal Council shall be one of the following types:

(a) Annual. Once a year to inform the Tribal membership of the affairs of the Tribe. Notice requirement shall be a seven day posting. No formal business shall be conducted.

(b) Regular. Transact all executive and legislative affairs of the Tribe. The Tribal Council, pursuant to Article III, § 5(e), can act in full capacity by issuing ordinances, resolutions, or motions. Notice requirement shall be a seven day posting of the agenda for the regular meeting.

(c) Special. Transact all executive business (motions or resolutions) of the Tribe. The Tribal Council cannot officially act by issuing ordinances when in executive session.

(1) Special meeting called by the Chair in his/her discretion. Notice requirement shall be a posting of the agenda pursuant to Article III, § 5(b) of the Tribal Constitution; the agenda must be posted 72 hours before the meeting.

(2) Special meeting called by two Tribal Councilors upon written notice. Notice requirement shall be seven days posting of agenda pursuant to Article III, § 5(b)(2) of the Tribal Constitution.

(3) Special meeting called upon the 10% of the registered Tribal voters pursuant to Article III, § 5(b)(3) of the Tribal Constitution, subject to the verification of the signatures by the GTB Election Board. Notice requirement shall be a seven day posting of the agenda.

(d) Emergency. Transact all executive and legislative business of the Tribe in an expedited manner. Notice requirement is 72 hours; however, an emergency meeting may be called to address health, safety, welfare, or preserve the property of the Tribe with less than 72 hours' notice. Maximum practical notice shall be given to each Tribal Councilor.

§ 308. Open and Closed Meetings. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

The Tribal Council shall determine whether the meeting is closed or open in conformity with the notice requirements of the Tribal Constitution regarding regular, special, or emergency meetings.

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(a) Annual. Open meeting to the Tribal membership.

(b) Regular. The Tribal Council shall post whether the meeting or proportions of the meeting are to be open or closed.

(c) Special. The Tribal Council shall determine whether the meeting is open or closed in accord with the definitions of personnel or legal matters as defined herein. The determination of the nature of the meeting shall be made by majority vote and a statement of rationale for closing the meeting, if so moved and passed by a majority, shall be entered in the record.

(d) Emergency. The Tribal Council shall determine whether the meeting is closed or open at the time of the seventy-two-hour posting. If the emergency meeting is called in less than 72 hours' notice/posting, the Tribal Council shall determine whether the meeting is closed or open at the beginning of the meeting.

§ 309. Records of Tribal Council Meetings. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

Access to Tribal Council minutes shall be freely available under the following rules and regulations:

(a) Pursuant to Article III, Section 4, of the Tribal Constitution, the general constitutional presumption is that all annual, regular, special, or emergency Tribal Council meetings are required to be recorded with published meeting minutes. Tribal members or their representatives shall have access to all Tribal Council meeting minutes.

(b) The transcripts of all Tribal Council meetings shall be available for review by Tribal members or their designated representatives. 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.

(c) If the Tribal Council elects to not keep a record of the discussion in closed session, a general reason for such determination shall be made by the Tribal Council in the official record of the meeting. A record of action taken by the Tribal Council in closed session shall be available for review upon the approval of the closed session minutes. The Tribal Council may elect to seal the closed records until final disposition of the matter dealt with in closed session.

(d) Tribal Council meeting minutes shall be available for approval by the Tribal Council within 30 days of the actual Tribal Council meeting in question and shall be approved within the time limits of Robert's Rules of Order.

(e) The records of the Tribal Council meeting shall be available for review during normal business hours of 8:00 a.m. to 5:00 p.m. on Monday through Friday.

(f) Copies of the Tribal Council meeting minutes shall be available to Tribal members provided that the requester reimburse the Tribe the reasonable amount for the cost of reproduction.

(g) Requests for copies of the Tribal Council minutes shall be made on the form prescribed by the Tribal Council and available at the Tribal Administration Building.

§ 310. Polling Procedures. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

The Tribal Council may pass a resolution by a poll taken after the Tribal Council regular, special, or

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emergency session provided the following procedures are followed:

(a) The resolution specifically identifies the Tribal Council session at which the Tribal Council acted in its legislative deliberative capacity or its executive administrative capacity;

(b) The polled resolution text is posted in a public place for Tribal membership review; and

(c) The poll is called by the Tribal Chair and is conducted by the Tribal Council Secretary or the specific delegate of the Tribal Council Secretary.

(d) Pursuant to Article III, Section 5(c), of the Tribal Constitution, the Tribal Chair may waive above subsections (A) and (B) and call the poll of a resolution on federal, state, and/or local funding sources where it is necessary for the preservation or protection of the health, welfare, peace, safety, or property of the Tribe.

§ 311. Establishment of Committees. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997. As amended by Tribal Act #98-16.655, enacted by poll of Tribal Council on October 30, 1998.]

(a) Pursuant to the authority of Article III, Section 3(a)(4), of the Tribal Constitution, the Tribal Council hereby establishes a committee structure to implement the deliberative governance process.

(b) Committees shall only exercise authority consistent with the Tribal Constitution and the rules and procedures established herein.

(c) The following committees are hereby created:

(1) Constitutional Committees. All constitutional committees shall consist of all Tribal Councilors, or their designees, with the respective Committee Chair voting only to break a tie vote.

(A) Executive Committee. Pursuant to Article III, Section 3, of the Tribal Constitution, the Executive Committee shall consist of the Chair, Vice Chair, Treasurer and Secretary. The Executive Committee shall have and may exercise all those powers identified in Article III, Section 3, of the Tribal Constitution and any additional executive power specifically delegated to the Executive Committee by a Tribal constitutional resolution ratified by the full Tribal Council.

(B) Treaty Rights, Natural Resource and Environmental Committee. The GTB Tribal Constitution provides the following:

"PREAMBLE: We, the members of the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, in order to organize for our common good, to govern ourselves under our own laws, to maintain and foster our tribal culture, to protect our homeland, to conserve and develop our natural resources, and to insure our rights guaranteed by treaty with the federal government, do establish and adopt, as an incident of our sovereign powers, this Constitution for the government, protection, and common welfare of the Grand Traverse Band under the authority of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), as amended.

ARTICLE X, Section 2: Treaty Rights and the Development of Tribal Resources. Members of the Grand Traverse Band shall have the right to fish, hunt, trap, and gather food from plants, subject to reasonable restrictions established by the Tribal Council for protection of the resources; provided that this Section does not include the right to

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commercially develop tribal resources, such right being reserved to the Band; provided further that the Band may license members to commercially develop the resources of the Grand Traverse Band.

ARTICLE XI, Section 2: "Land Use and Natural Resources Conservation Plans Required. The Tribal Council shall by ordinance establish a comprehensive land use and natural resources conservation plan for lands and natural resources subject to tribal jurisdiction. The Treaty Rights, Natural Resource and Environmental Committee shall develop a natural resource plan consistent with the Preamble; Article X, Section 2; and Article XI, Section 2 of the Tribal Constitution. This committee shall monitor Tribal treaty rights related to hunting, fishing, and gathering."

(2) Standing and Special Committees. The Tribal Council may, by resolution passed by a majority of the whole, designate one or more standing or special committees, each such committee to consist of one or more of the Tribal Councilors and a designated number of Tribal members as appropriate. Each such committee shall have and may exercise such of the powers of the Tribal Council in the management of the business and affairs of the Tribe as may be provided in such resolution, except as delegated by this ordinance or by the Tribal Council to another standing or special committee or as may be prohibited by law.

(3) Appointment, Duration and Removal. In the absence of any specific language contained in the resolution creating the special or standing committee, the appointment, duration and removal of committee members shall be governed by the GTB Committee Procedures Act, and bylaws of the committee, providing that the committee bylaws cannot preempt the GTB Committee Procedures Act or the resolution creating the committee.

§ 312. Procedure for Committee Operation. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

(a) A majority of a committee shall constitute a quorum for the transaction of any committee business.

(1) Such committee or committees shall have such name or names and such limitations of authority as provided by this ordinance or as may be determined from time to time by resolution adopted by the Tribal Council.

(2) The Tribe shall pay all expenses of committee operations.

(3) The Tribal Council may designate one or more appropriate Tribal Councilor as alternate member of any committee, who may replace any absent or disqualified member at any meeting of such committee.

(4) In the absence of disqualification of any members of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another appropriate member of the Tribal Council to act at the meeting in the place of any absent or disqualified member.

(b) Minutes. Each Tribal Council committee shall keep regular minutes of its proceedings and report same to the Tribal Council when required. The Tribal Secretary shall:

(1) Be the official keeper of the special or standing committee records of the Tribal Council,

(2) Keep regular minutes of standing or special committee proceedings,

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(3) Make available to the Tribal Council, as required, copies of all resolutions adopted or minutes or reports of other actions recommended or taken by any such standing or special committee, and

(4) Otherwise as requested keep the members of the Tribal Council apprised of the actions taken by such standing or special committees. The Tribal Secretary may delegate the actual performance of minute-taking to a specific individual within the committee.

(c) Compensation.

(1) Tribal Councilors may receive reasonable compensation for their services and expenses of attendance at each regular or special meeting of the committee consistent with the compensation structure and past practices of the Tribal Council; provided, however, that nothing herein contained shall be construed to preclude any Tribal Councilor from serving the Tribe in any other capacity and receiving additional compensation therefor.

(2) Members of special or standing committees may be allowed like compensation for attending committee meetings.

(3) The Tribal Council shall set the compensation standards for special and standing committees.

(4) In the event the committee contains no GTB staff employees, then the committee may request secretarial support from the Tribal Council.

§ 313. Stipends. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

(a) A stipend shall be paid to each Tribal Council member who is in attendance at a Tribal Council meeting pursuant to this ordinance.

(b) A Tribal Councilor has the option to decline payment.

(c) Stipends shall not be paid to any Tribal Councilor who is paid a salary directly by a Tribal enterprise.

Comment: This practice [outlined in this subsection 313(c)] was initiated prior to the adoption and approval of the 1988 Constitution. It is the opinion of the Tribe's Legal Department that this practice is consistent with past practices of prior Tribal Councils and constitutionally valid.

§ 314. Severability. [History: Tribal Act #97-15.471, enacted by Tribal Council on June 17, 1997.]

In the event that any section or provision of this ordinance, or amendments to this ordinance, is held invalid either by the Tribal Court or subsequent development of Tribal Constitutional standards and practices of the Tribal Council, it is the intent of the Tribal Council that the remaining sections or provisions of this ordinance, and amendments made to this ordinance, shall continue in full force and effect.

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CHAPTER 4
Tribal Councilors Salary Ordinance

§ 401. Statement of Purpose. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

The purpose of this ordinance is to establish salaries, allowances, and benefits for the Tribal Council consistent with Article XII of the Tribal Constitution and to establish delegated legislative procedures for determining the salary rate and benefits of Tribal Council positions. BE IT ENACTED by the Grand Traverse Band of Ottawa and Chippewa Indians, pursuant to the referendum provisions of Article IX, Section 2, of the Tribal Constitution, the following ordinance.

§ 402. Findings and Declaration of Policy. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

(a) The Tribal Council finds and declares that:

(1) The executive implementation function and legislative policy function of the Tribal Council require the full-time focus and attention of Tribal Councilors. Salary-based Tribal Council positions would enable the Tribal Councilors to meet their elected fiduciary and representative responsibilities to address the vast and complex regulatory governmental environment, proprietary business management, development decisions, and resource protection duties undertaken on behalf of the Tribe.

(2) Article IV of the Tribal Constitution provides the Tribal Council with expressed power to function as the executive and legislative bodies of the Tribe.

(3) Article IV, Section 3, of the Tribal Constitution provides a reservation of all Tribal power not expressly stated in the Tribal Constitution.

(4) Article IV, Section 1, of the Tribal Constitution contains an expressed limitation on the powers of the Tribal Council when acting in its executive and legislative capacity not to exercise power "inconsistent with any provisions(s) of this Constitution."

(5) Article XII, Section 1, of the Tribal Constitution is a limitation on the expressed and implied power of the Tribal Council by providing the following limitation:

In carrying out the duties of Tribal office, no Tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a personal financial interest, other than interests held in common by all Tribal members, against the best interests of the Band.

(6) It is the purpose of this Ordinance to provide for salary, allowances, and benefits based Tribal Council positions consistent with the Tribal Council power, Article IV, and limitations of power, Article XII, expressed in the Tribal Constitution by referendum, Article IX, of the Tribal membership.

(7) It is the further purpose of this Ordinance to establish delegated legislative procedures by the establishment of a Compensation Committee to address the questions of compensation, allowances, and benefits for Tribal Council positions.

(8) Delegation of legislative authority is only to Tribal members who are original parties to the constitutional contract created by the Tribal Constitution.

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(9) The Tribal Council Election scheduled for May 21, 1998, has four Tribal Councilor positions open. Consistent with the limitations of Article XII of the Tribal Constitution, any Tribal Councilor whose term extends beyond May of 1998 shall not vote in the affirmative or negative on this Ordinance. The effective date of the provisions of this Ordinance shall be post election of May 21, 1998.

§ 403. Definitions. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

(a) "Allowances". A share or portion allotted or granted as a reimbursement for ordinary and extraordinary (travel) expenses such as airfare, mileage, and per diem, while ministering the duties as Tribal Councilor; salary will include cost-of-living allowance.

(b) "Benefits". A payment or service provided for under an annuity, pension plan, or insurance policy, including health, vacation, sick time, personal time, etc. as provided for under the GTB Personnel Policies.

(c) "Compensation Committee". Consists of seven registered voters of the Tribe whereby the Tribal Council delegates legislative and executive authority to make a review and final determination on the salaries of Tribal Councilors.

(d) "Salary". Fixed compensation paid regularly for services rendered as determined by the Compensation Committee's wage grid structure.

§ 404. Delegation of Legislative Authority and Function. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

(a) The Tribal Council hereby delegates its legislative authority to the Compensation Committee to address the policy question of determining the amount of the salary, allowances, and benefits for Tribal Council positions, consistent with the powers of the Tribal Council and in recognition of the limitation of those powers under the conflict of interest provision of the Tribal Constitution.

(b) The Tribal Council hereby delegates its legislative authority to the Compensation Committee to make a review and final determination on the salaries of Tribal Councilors based on the following factors:

(1) A review of the past, present, and prospective workloads of the Tribal Council;

(2) A review and comparison of relevant governmental and industry standards; and

(3) Relevant Tribal factors, consistent with the custom and traditions of the Tribe, identified by the Compensation Committee.

(c) The Compensation Committee shall make and implement reasonable standards governing the "return to work" rights of elected Tribal Councilors who were formerly employed with a Tribal entity. Such standards shall apply to the Tribal Council elected on May 21, 1998, and all subsequent Tribal Councils.

(d) The Compensation Committee shall be composed of seven registered voters of the Tribe.

(1) Two shall be selected by the Tribal Chair and have a term of office for four years. Three shall be selected by the Tribal Council by majority vote and have a term of office for two years. The other two committee members shall be selected by majority vote of the five selected members and have a term of office for three years.

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(2) Vacancies shall be selected in the same manner as the position which was vacated by term of office, resignation, or death.

(e) The Compensation Committee shall have the power to request reports and recommendations from any Tribal entity.

(f) The decisions of the Compensation Committee shall not be subject to review or modification by the executive function or legislative function of the Tribal Council.

(g) The Compensation Committee shall have the power to develop internal procedures not inconsistent with this Ordinance, including determining the process by which Tribal members may have input regarding the decisions of the Compensation Committee.

§ 405. Work Product of Compensation Committee. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

(a) The Compensation Committee shall issue a set of standards in terms of a wage grid system that establishes the salary level, allowances, and benefits for Tribal Council positions.

(b) The standards shall be issued in not less than 30 days after the Compensation Committee's first meeting.

(c) The compensation standards shall take effect upon the issuance of standards by the Compensation Committee.

(d) The salary level shall be consistent with the wage grid structure and shall not be amended more than 10% on an annual basis.

§ 406. Compensation Committee Term. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

(a) The Compensation Committee shall have an indefinite life and convene on an annual basis to review the compensation standards of the Tribal Councilors, excluding the Chair's salary which shall be set by the Tribal Council.

(b) The Compensation Committee may make changes in the wage grid structure or allowances or benefits of the Tribal Council on an annual basis.

§ 407. Implementation. [History: Tribal Councilors Salary Ordinance, adopted by Tribal Council on March 25, 1998.]

The Compensation Committee shall be appointed by the Tribal Council elected in May of 1998. Thereafter, the Compensation Committee shall immediately implement the provisions of this Ordinance.

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GRAND TRAVERSE BAND CODE

Title 2

TRIBAL ADMINISTRATION

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CHAPTER 1
Due Process Procedures

Legislative Background: The following statement of due process was adopted by the Tribal Council with the following explanation/preamble:

The procedures outlined here will allow for an orderly process that will assure all Tribal members of fair and equitable treatment in Tribal Government services.

It must be noted that all grants and contracts have regulations that are imposed by the funding agency. These regulations must be followed in regard to all expenditures of the grant or contract. Most Tribal Programs have assurances for due process contained within these regulations. The due process contained in these regulations will apply in addition to the following process.

§ 101. Due Process Procedures. [History: Tribal Act #88-654, enacted by Tribal Council on November 19, 1988, and amended by Tribal Act #11-29.2323, enacted by Tribal Council in Special Session on November 30, 2012.]

If a Tribal member or parents/legal guardian of a Tribal member feels that he or she has been treated unfairly in his or her application for services or in dealings with the governmental services, the following procedures may be followed:

(a) Fill out the Due Process Complaint Form, stating problem as clearly and concisely as possible, sign, date and include your Tribal Identification Number.

(b) Deliver form to the Tribal Governmental Center either by mail or in person; attention: Tribal Manager.

(c) Within two to five business days of the Tribal Manager receiving the completed due process, a letter acknowledging the receipt of the due process will be sent to the Tribal member and the due process will be forwarded to the department with whom the due process has been filed against. In some instances it may be necessary for the Tribal member to complete a release of information to allow the parties involved to resolve the due process.

(d) The department will have 10 business days to respond to the Tribal Manager's office regarding the due process.

(e) The department response, with a cover letter from the Tribal Manager will be sent to the Tribal member within two business days of receiving the department response.

(f) If a Tribal member is not satisfied with the department response, he or she must contact the Tribal Manager's office within 10 business days from the date of the response letter. If no response is received by the Tribal Manager's office within 10 business days, the Tribal Manager will consider the due process matter closed and a letter to that effect will be sent to the Tribal member.

(g) If the Tribal member is not satisfied with the department response, upon notification of the dissatisfaction, the Tribal Manager's office will set up a date to meet with the Tribal member to review the response, upon the earliest convenience of the Tribal member. If the due process matter is not resolved at the meeting with the Tribal member and the Tribal Manager, the Tribal Manager will set up a meeting between the Tribal member and the Tribal Council at the next regular or special session.

(h) The Tribal Council will issue a finding on the issue and notify the Tribal member or parent/legal guardian of the Tribal member of their findings. The decision of the Tribal Council will be final

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unless otherwise provided for by regulation. Appeals may be made through the Tribal Court system and/or through the appeals process regulated within the Grant or Contract regulations involved in the dispute.

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CHAPTER 2
GTB Bidding Code

§ 201. Short Title. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

This ordinance shall be known as the GTB Bidding Code. The GTB Bidding Code's purpose is to provide a fair and equitable procedure for obtaining competitive bids pursuant to requests for bids or other bid solicitation procedures.

§ 202. Application of Code. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

This Code shall apply to the expenditure of Tribal funds for 1) the purchase of vehicles, software or equipment when the unit value is over $5,000 and 2) the purchase of personal or professional services when the contract is over $10,000. When a contract involves the expenditure of federal, state or private funds, the bid shall be conducted in accordance with applicable federal, state or private grantor agency law and regulation.

§ 203. Definition: Invitation for Bids. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

"Invitation for bids" means all documents, including those attached or incorporated by reference, utilized for soliciting sealed bids.

§ 204. Definition: Responsible Bidder. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

"Responsible bidder" means a bidder who submits a responsive bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction or items of tangible personal property described in the invitation for bids.

§ 205. Definition: Responsive Bid [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

"Responsive bid" means a bid which conforms in all material respects to the requirements set forth in the invitation for bids. Material respects of a bid include but are not limited to price, quality, quantity or delivery requirements.

§ 206. Definition: Tribal Preference. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

"Tribal preference" means, in order of preference, 1) any business that is at least 51% owned by an individual who is a member of the Grand Traverse Band of Ottawa and Chippewa Indians ("GTB member

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business") and 2) any business that is at least 51% owned by an individual who is a member of a federally recognized tribe ("Indian owned business").

§ 207. Competitive Sealed Bids: Invitation for Bids. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

(a) An invitation for bids shall be issued and shall include the specifications for the services, construction or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement including minimum/maximum time limits for bid submission, the location where bids are to be received and the date, time and place of the bid opening. The invitation for bids shall state that Tribal preference will apply and that proof of tribal membership is required.

(b) The invitation for bids or a notice thereof shall be published in the Tribal newsletter, (if time permits) and a local newspaper. The invitation for bids or a notice thereof shall also be posted at a public place in the GTB Administration Office and the GTB/EDC Office not less than 10 calendar days prior to the date set forth for the opening of bids.

§ 208. (Reserved) [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

§ 209. Competitive Sealed Bids: Receipt and Acceptance of Bids. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

Bids shall be unconditionally accepted for consideration for award without alteration or correction, except as authorized in the Bidding Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which requirements may include criteria to determine acceptability such as inspection, testing quality, workmanship, delivery and suitability for a particular purpose. Those criteria such as discounts, transportation costs and total or lifecycle costs that will affect the bid price shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. If the lowest responsible bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest bidder may negotiate with the purchaser for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid was up to 10% higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than 10% over budgeted project funds.

§ 210. Competitive Sealed Bids: Correction or Withdrawal of Bids. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

(a) A bid containing a mistake discovered before bid opening may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written, electronic, or fax notice to the location designated in the invitation for bids as the place where bids are to be received. After bid opening, no modifications in bid prices or other provisions of bids shall be permitted. A low bidder alleging a material mistake of fact which makes his bid nonresponsive may be permitted to withdraw its bid if:

(1) The mistake is clearly evident on the face of the bid document; or

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(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

(b) Any decision by the Purchasing Manager or his/her authorized representative to permit or deny the withdrawal of a bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision.

§ 211. Competitive Sealed Bids: Tribal Preference. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

Tribal Preference shall be provided first to responsible GTB member businesses and second to other responsible Indian owned businesses. Their quotation or bid shall be considered the lowest responsible bidder if their quotation or bid is no more than the appropriate percentage over the quotation or bid of the lowest responsible bidder in accordance with Chart A – "GTB BID CRITERIA." The amount of the Tribal preference shall not exceed the dollar values listed for each level of bids.

Chart A - GTB Bid Criteria	
When the lowest responsive bid is ...	
Less than $100,000	10% of that bid up to $9,000
At least $100,000 but less than $200,000	9% of that bid up to $16,000
At least $200,000 but less than $300,000	8% of that bid up to $21,000
At least $300,000 but less than $400,000	7% of that bid up to $24,000
At least $400,000 but less than $500,000	6% of that bid up to $25,000
At least $500,000 but less than $1,000,000	5% of that bid up to $40,000
At least $1,000,000 but less than $2,000,000	4% of that bid up to $60,000
At least $2,000,000 but less than $4,000,000	3% of that bid up to $80,000
At least $4,000,000 but less than $7,000,000	2% of that bid up to $105,000
$7,000,000 or more	1.5% of the lowest responsive bid, with no dollar limit

§ 212. Competitive Sealed Bids: Bid Opening. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

Bids shall be opened publicly by the GTB Purchasing Department in the presence of one or more witnesses at the time and place designated in the invitation of bids. The amount of each bid and each bid item shall be recorded, and the record and each bid shall be open to public inspection.

§ 213. Competitive Sealed Bids: Award. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

A contract solicited by competitive sealed bids shall be awarded with reasonable promptness by written

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notice to the lowest responsible bidder.

§ 214. Competitive Sealed Bids: Identical Bids. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

When competitive sealed bids are used and two or more of the bids submitted are identical in price and are the low bid, the Purchasing Manager may:

(a) Award by lottery to one of the identical low bidders if there were no GTB member businesses or Indian owned businesses. If one of the identical low bidders is a GTB member business or Indian owned business, the bid shall be awarded to (in order of preference) 1) the GTB member business or 2) the Indian owned business. If more than one GTB member business is the identical low bidder than a lottery shall be held only between the GTB member businesses; or

(b) Reject all bids and resolicit bids or proposals for the required services, construction or items of tangible personal property.

§ 215. Small Purchases. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

Small purchase procedures are those relatively simple and informational procurement methods for securing services, supplies, or other property that do not have a unit cost of more than $5,000. If the small purchases procedure is used, the Tribal purchasing agent or purchasing division shall procure services, construction or items of tangible personal property having a value not exceeding $5,000 by obtaining price or rate quotations from an adequate number of qualified sources. Documentation of efforts to obtain price or rate quotations from vendors shall be kept on file in the Purchasing Department.

§ 216. Sole Source Bid. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

A contract may be awarded without competitive sealed bids regardless of the estimated cost when the Tribal purchasing agent makes a determination, after conducting a good-faith review of available sources and consulting the using Tribal division or business division, that there is only one source for the required service, construction or item of tangible personal property. The Tribal purchasing agent shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the Tribal division or Tribally-chartered entity.

§ 217. Emergency Procurements. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

(a) The Tribal purchasing agent or an authorized representative may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the. selection of the particular contractor shall be included in the purchasing department files.

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(b) An emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

(1) The functioning of government;

(2) The preservation or protection of property; or

(3) The health or safety of any person.

§ 218. Rejection or Cancellation of Bids or Requests for Proposals; Negotiations. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

An invitation for bids or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the Tribal division or Tribally chartered entity. A determination containing the reasons for cancellation shall be made part of the bid file. If no bids are received or if all bids received are rejected and if the invitation for bid was for any tangible personal property, construction or service, then new invitations for bids shall be requested. If upon rebidding the tangible personal property, construction or services, the bids received are unacceptable, or if no bids are secured, the purchasing office may purchase the tangible personal property, construction or services in the open market at the best obtainable price.

§ 219. Irregularities in Bids or Proposals. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

The Tribal purchasing agent may waive technical irregularities in the form of the bid or proposal of the low bidder or offeror which do not alter the price, quality or quantity of the services, construction or items of tangible personal property bid or offered.

§ 220. Responsibility of Bidders and Offerors. [History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

If a bidder or offeror who otherwise would have been awarded a contract is found not to be a responsible bidder or offeror, a determination that the bidder or offeror is not a responsible bidder or offeror, setting forth the basis of the finding, shall be prepared by the Tribal purchasing agent who makes such a determination. The unreasonable failure of a bidder or offeror to promptly supply information, in connection with an inquiry with respect to responsibility, is grounds for a determination that the bidder or offeror is not a responsible bidder or offeror.

Chart B (Reserved)
Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.]

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CHAPTER 3
Tribal Constable

§ 301. Establishment of Tribal Constable Position. [History: Tribal Act #85-362, enacted by Tribal Council on December 18, 1995.]

(a) By this resolution and the description of duties herein incorporated by reference, this Tribe does establish the position titled Tribal Constable.

(b) The Constable is delegated responsibility and authority to enforce all Tribal laws, and applicable federal/state law on established Reservation lands.

(c) This position in Tribal government shall be one filled by appointment by the Tribal Council and an appropriate swearing into office and oath shall be developed for the process.

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CHAPTER 4

Tribal Records Ordinance

[History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

The official records of the Tribal Government are public records subject to disclosure upon the petition of a member/citizen of the Tribe. Official records shall include those to which access is not restricted or held privileged under any federal or state laws or regulations, specific tribal ordinances or policies or Generally Accepted Accounting Principles or Generally Accepted Auditing Principles.[1]

§ 401. (Requested Information) [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

All petitions for information shall be in writing and directed to the Tribal Department Manager that is the custodian of the information. The requested information must be described with specificity by listing the actual or approximate date of the document or documents and the type of document requested e.g., resolutions, motions, letter determination, minutes, or similar documents generated in the course of tribal public business.

§ 402. (Determination of Non-disclosure). [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

The Tribal Department Manager shall determine, in consultation with the Tribal Manager and the GTB Legal Department, whether the requested information is privileged or confidential information subject to federal tribal, or state law non-disclosure rules. If the Department Manager and the GTB Legal Department determine that the information is subject to non-disclosure, then the Department Manager shall notify the petitioner that the information is subject to rules of non-disclosure. The Department Manager shall list with specificity the federal, tribal or state law that governs the non-disclosure in the denial of the release of information to the petitioner.

§ 403. (Information Subject to Disclosure). [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

If the petition for information is subject to disclosure, then the custodian of records shall respond to the petition within 10 business days. If the record is a public governance document, then there shall be no charge for the requested information. If the record is not a public governance document, then the petitioner shall be charged a reasonable amount, reflecting the time and copy charges for the requested information, for access to the information.

§ 404. (Access to Records Room or Document Depository). [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

If the petitioner is requesting access to the records room or document repository to generally review the records, then the Tribal Department Manager shall generate a sign-in and sign-out sheet to ensure that the integrity and security of the records are maintained in accord with the substantive governing federal, state, or tribal law. The Tribal Department Manager shall make a segregation of the records to ensure that matters governed by federal, state, or tribal confidentiality laws are followed. The Tribal Department Manager shall provide the petitioner a list of all segregated records and the legal rationale for the segregation.

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1. **Editor's Note: Section titles, in parentheses, have been supplied editorially in this chapter.**

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§ 405. (Notification of Subject Person or Program). [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

The person or tribal program subject to the release of information shall be notified that a citizen/member of the Tribe by name (petitioner) has requested the release of information in the control of the Tribe concerning the person or tribal program. Information released to the petitioner shall also be provided to the person or tribal program that is the subject of the release of information. The person or tribal program shall be granted an opportunity to object to the release of information. The objection must be framed in terms of federal, tribal, or state law and must state with factual specificity the grounds for the objection.

§ 406. (Right to Redact). [History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.]

The Grand Traverse Band reserves the right to redact information that may tend to compromise the safety, security and peace of Grand Traverse Band communities or individual members of the Band prior to disclosure to any member/citizen of the Tribe.

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CHAPTER 5
Grand Traverse Band Open Access to Meetings Act

§ 501. Purpose; Authority; Findings. [History: Enacted by Tribal Council motion on September 30, 2015; and amended by Tribal Council motion on May 25, 2016.]

(a) This Act is established by the following authority:

(1) Article IV, Section 1(c) of the Constitution, granting to the Tribal Council the power to make laws, including codes, ordinances, resolutions and statutes.

(2) Article III, Section 5(d)(1) of the Constitution, providing that meetings of the Tribal Council and, by implication, agencies, committees and commissions created under the authority of Article IV, Section 1(c) and (m), "shall be open to tribal members and tribal members shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe" through additional legislation consistent with its authority under Article IV, Section 1, wherein the Executive and Legislative functions are combined in the Tribal Council.

(b) The purpose of this Act is to ensure that the Tribe's governmental business is conducted in an open and public manner subject to review by Tribal citizens and designated employees or agents of the Tribe. This Act will ensure that the citizens of the Grand Traverse Band remain informed on the affairs of the Band, their elected government officials and the governmental systems created by the people of the Grand Traverse Band.

(c) The Tribal Council finds that public accountability and transparency of all governmental action is of paramount importance to legitimate governments, and that modern technology provides simple and easy solutions to allow the Tribal citizens to maintain fully-informed and democratic participation.

§ 502. Definitions. [History: Enacted by Tribal Council motion on September 30, 2015; and amended by Tribal Council motion on May 25, 2016.]

(a) "Citizens" means all enrolled members of the Grand Traverse Band wherever located.

(b) "Closed Session" means the portion of a Regular, Special or Emergency Meeting that is closed to the public for the discussion of personnel or legal matters, or as may otherwise be permitted by federal or Tribal law.

(c) "Meeting" means the official convening of a quorum of members of a Public Tribal Body for the purpose of conducting public tribal business and includes Regular, Special and Emergency Meetings.

(d) "Public" means an enrolled member of the Grand Traverse Band and other persons as authorized by the Tribal Council to attend public meetings.

(e) "public body" means any official entity of the Tribe at which a quorum is required to conduct public business and which performs a governmental function for the Band. Public Bodies shall include the Legislature, including its committees established and organized pursuant to the Committee Procedures Act, 1 GTBC § 209, and the following defined Public Bodies:

(1) The Election Board, established pursuant to Article VII of the Constitution;

(2) The Gaming Commission, established pursuant to 18 GTBC § 401 et seq.;

(3) The Natural Resource and Environmental Committee, established to administer Article X,

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Section 2 and Article XI, Section 2 of the Constitution; and

(4) Other boards, committees or subordinate organizations as the Tribal Council may from time to time establish and delegate legislative or executive authority.

§ 503. Open Meetings; Audio and Visual Recordings. [History: Enacted by Tribal Council motion on September 30, 2015; and amended by Tribal Council motion on May 25, 2016.]

(a) Every meeting of a public body shall be noticed to the public according to the standards found in Article VI, Section 5 of the Constitution.

(b) Every meeting of a public body shall be take place in the Tribal Council meeting room in the Administrative Building and shall be preserved on an audio and visual recording, which shall be maintained and made available on the internet for access and review by citizens of Grand Traverse Band by means of an internet secure protocol to be established by the Information Technology Department of the Tribal Government and kept restricted to access by only by Tribal citizens.

(1) Closed sessions shall not be subject to audio and visual recordings, but the business to be discussed in closed sessions shall comply with Article IV, Section (d)(1) of the Constitution or be subject to applicable federal privacy laws. The reason for entertaining a matter in closed session shall be clearly stated on a meeting's agenda and on the record in open session (i.e., a legal matter, a personnel matter, or the applicable federal privacy law).

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CHAPTER 6
Grand Traverse Band Emergency Meetings Act

§ 601. Purpose; Authority; Findings. [History: Tribal Act #20-38.3206, enacted by Tribal Council in Emergency Meeting on March 16, 2020.]

(a) This ordinance is established by the following authority:

(1) Article IV, Section 1(a) of the Constitution, empowering the Tribal Council to promote and protect the health, education, and general welfare of the Band and its members.

(2) Article IV, Section 1(b) of the Constitution, empowering the Tribal Council to safeguard and promote the peace and safety of the Band and its members.

(3) Article IV, Section 1(c) of the Constitution, empowering the Tribal Council to make all laws, not inconsistent with the Constitution, which shall be necessary and proper to carry out the sovereign powers of the Tribe, and to implement and enforce the same.

(4) Article III, Section 5(d)(1) of the Constitution, empowering the Tribal Council to prescribe rules and regulations to allow meetings to be open to tribal members, with Tribal members having a reasonable opportunity to be heard.

(b) The purpose of this ordinance is to ensure that the Tribe's business can continue to be conducted by the Tribal Council in an open and public manner and subject to review by Tribal members in the case of a declared emergency.

(c) The Tribal Council finds that: public accountability and transparency of all Tribal governmental action is of paramount importance, even in extraordinary cases of a declared emergency; modern technology affords solutions to allow the government to continue to function during such emergencies while still ensuring public accountability and transparency; and added reliance on such modern technology in cases of emergency is a prudent and reasonable means to maintain the continuity of its government activities while still allowing Tribal members to remain fully informed and to continue their democratic participation.

§ 602. Emergency defined. [History: Tribal Act #20-38.3206, enacted by Tribal Council in Emergency Meeting on March 16, 2020.]

"Emergency" as that term is used in this Emergency Meetings Ordinance means an emergency that is lawfully declared by the Tribal Chairperson pursuant to the Emergency Operation Guide, Basic Plan, as the Plan is established in accordance with the Tribe's Emergency Management Resolution, 02-20.1121, or its successor or by declaration of an emergency by the President of the United States.

§ 603. Meetings of the Tribal Council while in an Emergency. [History: Tribal Act #20-38.3206, enacted by Tribal Council in Emergency Meeting on March 16, 2020. As amended by Tribal Council motion on 4-15-2020]

(a) Notwithstanding any other provision of law, during an emergency where the nature of the emergency makes or has made meeting at the Tribal Council meeting room in the Administrative Building impossible or contrary to health and safety recommendations of experts appointed by the Tribe, the state, or federal government, a meeting of the Tribal Council or a "public body" as that term is defined by Section 502(e) of the Grand Traverse Band Open Access to Meetings Act, 2 GTBC § 502, may be held electronically, including by telephonic conferencing or video conferencing, provided that the

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meeting is conducted in a manner in which both the public and the members of the Tribal Council or public body may participate by electronic means.

(b) A meeting of the Tribal Council or public body held electronically must be conducted in a manner that permits two-way communication so that members of the Tribal Council or public body can hear and be heard by its other members and so that Tribal members can hear members of the Tribal Council or public body and can be heard by members of the Tribal Council or public body and other meeting participants during any public comment period. The Tribal Council or public body may also use technology to facilitate typed public comments that may be read to or shared with its members and other participants.

(c) Tribal Councilors, the Tribal Chairperson, and any member of a public body, if participating electronically, will be considered present and in attendance at the meeting and may participate in the meeting without limitation or restriction.

(d) All notice provisions required for the holding of a Tribal Council meeting or meeting of a public body remain in effect during an emergency, except that any notice of a meeting must include an explanation of:

(1) The justification as to why the Tribal Council or public body is meeting electronically;

(2) Procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both; and

(3) Procedures by which persons may contact members of the Tribal Council or member of the public body to provide input or ask questions on any business that will come before the Tribal Council or public body at the meeting.

(e) During a meeting of the Tribal Council or public body where any councilor or member is attending electronically, the presiding official conducting the meeting shall use the following voting presumption when calling for a vote by members attending electronically. The voting presumption shall be that all members support the motion or resolution unless the member orally and affirmatively opposes the motion or resolution or orally and affirmatively abstains from the vote. **[History: Amended by Tribal Act #20-38.3278, enacted by Tribal Council on 9-16-2020.]**

(f) Members of the public otherwise participating in a meeting held electronically may be excluded from participation in a closed session during that meeting.

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GRAND TRAVERSE BAND CODE

Title 3

JUSTICE

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CHAPTER 1
Office of Tribal Prosecutor

§ 101. Appointment and Compensation. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; Tribal Act #03-21.1179 enacted by Tribal Council on January 15, 2003; by Tribal Council motion on September 30, 2015; and by Tribal Council in Special Session on 3-17-2021.]

(a) Appointment of the Tribal Prosecutor shall be by an affirmative vote of a majority of the Tribal Council for a term of two (2) years.

(b) The Tribal Council shall have the power to establish the level of compensation for the Tribal Prosecutor.

§ 102. Qualification. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

(a) Any person shall be eligible to serve as Tribal Prosecutor only if he/she:

(1) Is an attorney in good standing licensed to practice law in any state in the United States and/or is a member of the Grand Traverse Band who has attained the age of eighteen (18);

(2) Has not been convicted, within ten (10) years of such appointment, of any felony by a court of competent jurisdiction; and

(3) The Tribal Prosecutor shall attend training and seminars and accumulate continuing legal education units equal to the requirements of the State Bar of Michigan for new lawyers, in order to stay current on trends in criminal and civil matters pertaining to his or her function as prosecutor.

§ 103. Prosecutor's Office Shall Function Within Justice Division. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

(a) The Prosecutor's office shall be a function of the Justice Division of Tribal government.

(1) The Tribal Prosecutor shall be subject to the uniform and standard provisions of the GTB Personnel Policy, so long as the provisions do not conflict with the prosecutorial discretion decisions of the office.

§ 104. Duties of Tribal Prosecutor [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

(a) The Tribal Prosecutor shall:

(1) Be the chief law enforcement officer of the Tribe and shall be responsible for all criminal investigations and prosecutions in Tribal Court, including arraignments, motions, trials and appeals.

(2) Have the discretion to prosecute violations of the Tribe's constitution, criminal code, ordinances and resolutions in Tribal Court.

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(3) Work closely with the Tribal Court Administrator and Tribal Judge to improve the delivery of services within the Tribal Court and to assist the Court in case management and docket preparation.

(4) Serve as presenting officer in the Tribe's Children's Court and represent the Tribe in Indian child welfare cases in state jurisdictions upon the authorization of the ICW Committee or the Tribal Court.

(5) Prosecute violations of the Tribe's fishing and conservation regulations as well as the regulations of the Chippewa-Ottawa Treaty Fishing Management Authority, in the Tribe's Conservation Court.

(6) Establish a working relationship with local, state and federal jurisdictions and establish a protocol for coordinating criminal investigations and prosecutions with such local, state and federal jurisdictions.

(7) Review all charges and complaints of violations of Tribal codes and ordinances and determine what charges to bring and whom to charge.

(8) Review all requests for arrest warrants and search warrants to determine if all constitutional requirements are satisfied prior to approval or authorization.

(9) Serve, in his/her civil capacity, as in-house counsel for the various departments of Tribal government and shall render legal opinions when requested to do so.

(b) The Tribal Prosecutor may give advice to Tribal members and employees and shall provide pro-bono services to Tribal elders or Tribal members who are having legal problems which may be related to their status as Native Americans. These services may only be provided as time permits and may not take priority over normal prosecutorial duties.

§ 105. Prosecutorial Subpoena Power. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

(a) The Tribal Prosecutor is hereby empowered to issue subpoenas for compelling or producing documentation in criminal investigations and investigations into civil violations of the GTB Constitution.

(b) A person subpoenaed may be represented by counsel.

(c) A person subpoenaed may invoke his/her constitutional privilege against self-incrimination.

(d) The Tribal Prosecutor shall have the power, with Tribal Court approval, to grant immunity to any witness. Once indemnified, in writing, a witness may not refuse to answer questions covered by the immunity agreement.

(e) A person who refuses to testify pursuant to a prosecutorial subpoena, after being granted immunity, may be brought before the Tribal Court to show cause why he/she should not be held in contempt of court.

§ 106. Conflict of Interest, Absence, Disability, Inability of Tribal Prosecutor to Act; Appointment of Special Prosecutor. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by

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Tribal Council in Special Session on 3-17-2021.]

(a) In case of conflict of interest, or the absence, disability or inability of the Tribal Prosecutor to act, the Tribal Court upon motion of an interested party or on its own motion, may appoint an attorney to serve as Special Prosecutor.

(b) The Special Prosecutor shall have all of the authority of the Tribal Prosecutor for that occasion.

§ 107. Tribal Prosecutor Not to Act in Civil Matter. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

In case the Tribal Council shall employ an attorney to represent the Tribe in a civil matter, the Tribal Prosecutor shall not act with respect to such matter unless requested to do so by the Tribal Council.

§ 108. Removal of Tribal Prosecutor. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

(a) The Tribal Council may, by an affirmative vote of a majority of its members, refer the Tribal Prosecutor to the Tribal Judiciary for removal from office for any of the following reasons:

(1) Official misconduct.

(2) Willful neglect of duty.

(3) Gross misconduct.

(4) Conviction of a felony.

(5) Disbarment by any state.

(6) Mental or physical incapacity.

(7) Unethical conduct as defined by the American Bar Association.

(b) The Tribal Prosecutor shall be notified in person or by registered mail, at least ten (10) days before any meeting at which the Tribal Prosecutor's removal is to be considered.

(c) The notice of intent to refer for removal shall set forth, with specificity, the alleged grounds for removal and inform the Tribal Prosecutor that he/she may appear to defend against such referral.

(d) If the Tribal Council votes to refer the Tribal Prosecutor to the Tribal Judiciary for removal, the grounds shall be set forth with specificity, and the Tribal Prosecutor shall be suspended with pay until the Tribal Judiciary rules on the referral.

(e) Before the Tribal Judiciary rules on the Tribal Prosecutor's removal from office, it shall afford the Tribal Prosecutor a hearing upon due notice at which time he/she may answer the charges.

(f) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council exist, the Tribal Judiciary, by a majority vote of all members, shall remove the Tribal Prosecutor from office.

(g) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council do not exist, the suspended Tribal Prosecutor shall be fully reinstated to office.

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§ 109. Incorporation. [History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; and by Tribal Council in Special Session on 3-17-2021.]

This ordinance is for the establishment of a Tribal Prosecutor, hereby incorporated into the Tribe's Criminal and Civil Codes, the Children's Code, the Law Enforcement's Manual of Operations and the Tribe's Personnel Policy.

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CHAPTER 2
Separate Funding for Tribal Court

§ 201. Funding Allocated to Tribal Court as Branch of Government. [History: Tribal Act #96-14.317, enacted by Tribal Council on February 20, 1996.]

Consistent with the Tribal Constitution and GTB Tribal Act #95-13.253, § 1, to the Department of Justice, the Tribal Council specifically finds and directs that all Tribal Courts funding from Tribal resources of the Grand Traverse Band be allocated to the Tribal Court as a branch of government.

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CHAPTER 3
Personal Jurisdiction and Long-arm Jurisdiction Over Tribal Members

§ 301. Statement of Purpose. [History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998. As amended by Tribal Council in Special Session 10-26-2022.]

(a) The purpose of this statute is to establish personal jurisdiction of the Tribal Court. Personal jurisdiction refers to the power of a court to determine the rights and liabilities of a person or entity. The exercise of personal jurisdiction must comport with the Due Process Clause in Article X, section 1(h) of the Grand Traverse Band Constitution.

(b) This ordinance is enacted by the Tribal Council pursuant to its powers under Article IV, section 1, subsections: (a) to promote and protect the health, education, and general welfare of the Band and its members; (b) to safeguard and promote the peace and safety of the Band and its members; (c) to make, enforce, and implement all laws; and (f) to provide for the maintenance of law and order and administration of justice.

§ 302. Definitions. [History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998. As amended by Tribal Council in Special Session 10-26-2022.]

(a) "Indian Country," as used in this chapter "means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." 18 U.S.C. § 1151.

Comment: Section 1151 is a criminal statute, but the Supreme Court has found that it "generally applies as well to questions of civil jurisdiction." DeCoteau v. District County Court, 420 U.S. 425, 427 n.2 (1975).

(b) “Person” means an individual, that person’s executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, whether or not a citizen or domiciliary of the Grand Traverse Band of Ottawa and Chippewa Indians and whether or not organized under the laws of the Grand Traverse Band.

(c) “Transaction of business” means the doing of any act for the purpose of realizing pecuniary benefit or accomplishing or attempting to accomplish, transact or enhance the business purpose or objective or any part thereof of such person, firm, company, association or corporation.

§ 303. Jurisdictional Requirements to Exercise Judicial Power. [History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998. As amended by Tribal Council in Special Session 10-26-2022]

(a) Generally. As a court of general jurisdiction, the Tribal Court's power extends over all cases arising under the Constitution, ordinances, regulations, or judicial decisions of the Grand Traverse Band.

(b) Subject Matter Jurisdiction. A court exercising the judicial power of the Grand Traverse Band may entertain a civil action only when it has subject matter jurisdiction.

(c) Personal Jurisdiction. A court of the Grand Traverse Band having subject matter jurisdiction may

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render a judgment only if: (1) a summons issued by the court is served upon the person or (2) service of the summons is waived or dispensed. The voluntary appearance of the defendant is equivalent to personal service on the defendant of a copy of the summons and complaint.

(d) Jurisdiction in Rem or Quasi in Rem. The Tribal Court having jurisdiction of the subject matter may exercise jurisdiction in rem or quasi in rem on the grounds stated in this section. Jurisdiction in rem or quasi in rem may be involved:

(1) When the subject of the action is real or personal property located on Grand Traverse Band Indian trust lands and the defendant has or claims any lien or interest therein, or the relief demanded consists wholly or partially in excluding the defendant from any interest or lien therein. This subsection shall apply whether any such defendant is known or unknown.

(2) When the action is to foreclose, redeem from or satisfy a leasehold deed of trust, mortgage or lien upon real or personal property located on Grand Traverse Band trust lands.

(3) When the action is for a divorce or annulment of marriage of an enrolled member or a spouse of an enrolled member, either of whom is a resident of Grand Traverse Band trust lands at the date of separation and both spouses resided on Grand Traverse Band trust lands prior to separation.

(4) In any other action in which in rem or quasi in rem jurisdiction may be lawfully exercised under Tribal law or federal law applicable to Federal Indian Tribes. Such jurisdiction shall not be exercised over any subject matter which would be inconsistent with federal prohibition against alienation (25 U.S.C. 177) or any other federal law restricting the use or conveyance of Indian lands, property or legal rights.

§ 304. Grounds for Personal Jurisdiction. [History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998. As amended by Tribal Council in Special Session 10-26-2022]

(a) The Tribal Court shall have personal jurisdiction over all persons, and all causes of action or claims for relief, to the maximum extent consistent with the due process clause of Article X, section 1(h) of the GTB Constitution.

(b) General Personal Jurisdiction. A Tribal Court has jurisdiction in any action arising on or off the lands of the Grand Traverse Band against a defendant who:

(1) Is a natural person present on GTB lands when served;

(2) Is a natural person domiciled or resident on GTB lands when the cause of action arose, the action was commenced, or process was served;

(3) Is a corporation organized under GTB law;

(4) Is engaged in substantial and not isolated activities on GTB lands, whether such activities are wholly interstate, intrastate or otherwise; or

(5) Is a Grand Traverse Band Tribal member.

(c) Specific Personal Jurisdiction. The Tribal Court has jurisdiction over a person served in conformance to the GTB Rules of Civil Procedure for any action:

(1) Arising out of the transaction of any business on GTB lands.

(2) Brought under a law that specifically confers personal jurisdiction over the defendant.

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(3) Claiming injury to person or property arose out of an act or omission on GTB lands by the defendant, regardless of the location of the injury or its discovery.

(4) Claiming injury to person or property on GTB lands arising out of an act or omission outside GTB lands by the defendant, provided that at the time of the injury, either:

(A) Solicitation or service activities were engaged in on GTB lands by or on behalf of the defendant; or

(B) Products, materials or things processed, serviced, manufactured, or distributed by the defendant were used or consumed on GTB lands in the ordinary course of trade.

(5) Arising out of:

(A) A promise made anywhere to the plaintiff or to a third party for the plaintiff's benefit by the defendant to perform services or to pay for services to be performed on GTB lands by the plaintiff; or

(B) Services performed for the plaintiff by the defendant on GTB lands, or services performed for the defendant by the plaintiff on GTB lands if such performance on GTB lands was authorized or ratified by the defendant; or

(C) A promise made anywhere to the plaintiff or to some third party for the plaintiff's benefit by the defendant to deliver or receive on, or to ship from, GTB lands goods, materials, or other things of value; or

(6) Relating to goods, documents of title, or other things of value:

(A) Shipped from GTB lands by the plaintiff to the defendant on the defendant's order or direction; or

(B) Received by the plaintiff on GTB lands from the defendant without regard to where delivery to carrier occurred.

(7) Arising out of:

(A) A promise made anywhere to the plaintiff or to some third party for the plaintiff's benefit by the defendant to create in either party an interest in, or protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated on GTB lands; or

(B) A claim to recover any benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated on GTB lands either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

(C) A claim that the defendant returns, restores, or accounts to the plaintiff for any asset or thing of value, which was on GTB lands at the time the defendant acquired possession or control over it.

(8) To recover a deficiency judgment upon a mortgage note or conditional sales contract or other security agreement executed by the defendant or predecessor to whose obligation the defendant has succeeded and the deficiency is claimed either:

(A) In any action in a GTB Tribal Court to foreclose upon real property situated on GTB lands;

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or

(B) Following sale of real property on GTB lands by the plaintiff; or

(C) Following resale of tangible property on GTB lands by the plaintiff.

(9) Arising out of:

(A) A contract to insure any person, property, or risk located on GTB lands at the time of contracting; or

(B) An obligation or a promise made anywhere by the defendant to insure upon or against the happening of an event where either (A) the person insured was an enrolled Tribal member when the event out of which the cause of action is claimed to arise occurred; or (B) the event out of which the cause of action is claimed to arise occurred on GTB lands, regardless of the location of the interest insured.

(10) Arising out of the ownership, possession, or control of any asset or thing of value located on GTB lands when ownership, possession, or control was acquired.

(11) Arising out of the performance of duties as a director or officer of a corporation organized under Tribal law or having its principal place of business on GTB lands.

(12) Arising out of the solicitation, pursuit, denial, or receipt of a service or benefit that is administered or offered by or on behalf of GTB.

(d) The jurisdictional grounds in (c)(1)-(12) are cumulative, nonexclusive, and in addition to any common law grounds for personal jurisdiction.

(e) Joinder of Claims in Same Action. In any action brought under the jurisdictional grounds stated in (c)(1)-(12), there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this section for personal jurisdiction over the defendant as to the claim or cause to be joined.

§ 305. Severability. [History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998. As amended by Tribal Council in Special Session 10-26-2022]

If a court of competent jurisdiction holds invalid or unconstitutional any section, paragraph, sentence or other portion of this ordinance, such portion shall not affect the validity of the remaining portions of this ordinance.

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CHAPTER 4
Grand Traverse Band Arbitration Code

§ 401. Short Title and Purpose. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) Short title. This code shall be entitled "The Grand Traverse Band Arbitration Code."

(b) Purpose. It is the purpose of this Code to authorize the arbitration of disputes in contractual agreements and to provide for the enforcement of agreements to arbitrate, and resulting arbitration awards, by the Tribal Court.

§ 402. Scope of Code and Repeal of Inconsistent Provisions. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) Scope. This Code applies to any written contract or other instrument entered into by the Grand Traverse Band, by any subdivision, instrumentality or agency of the Band, or by any other person in a transaction that is subject to the jurisdiction of the Band, in which: (1) the parties thereto agree to settle by arbitration any controversy arising out of such contract or other instrument, and (2) the Tribal Council designates, by resolution, that this Code shall apply.

(b) Inconsistent provisions. Any prior legislation or other Band laws that are inconsistent with the purpose and procedures established by this Code are hereby repealed to the extent of any such inconsistency.

§ 403. Enforceability of Agreements to Arbitrate. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

An agreement in any written contract or other instrument, or in a separate writing executed by the parties to any written contract or other instrument, to settle by arbitration any controversy thereafter arising out of such contract or other instrument, or any other transaction contemplated thereunder, or a written agreement between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement, shall be valid, irrevocable and enforceable.

§ 404. Law to be Applied. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) In any contract or other instrument described in § 402(a) of this Code, the parties may agree upon the jurisdiction whose substantive law shall govern the interpretation and enforcement of the contract, instrument or controversy. Such choice of law shall be valid and enforceable, and not subject to revocation by one party without the consent of the other party or parties thereto, provided that the subject matter of the contract, instrument or controversy, or at least one of the parties thereto, shall have some contact with the jurisdiction so selected.

(b) In any proceeding under this Code, whenever the contract or other instrument sets forth a choice of law provision, the Tribal Court shall apply the procedural rules of the Tribal Court and the substantive law of the jurisdiction selected in such choice-of-law provision; provided that no procedural rule of the Tribal Court shall bar, unreasonably delay or impair any action, proceeding or remedy where such action, proceeding or remedy would not be barred, unreasonably delayed or impaired by the procedural rules of the courts of the jurisdiction whose substantive law applies.

(c) In any proceeding in the Tribal Court relating to a contract or other instrument described in § 402(a)

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of this Code, whenever the contract or other instrument does not set forth a choice of law provision, the Tribal Court shall apply the substantive law of the Band, including any applicable choice-of-law principles.

§ 405. Stay of Proceedings in Tribal Court and Order to Proceed with Arbitration. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) If any action for legal or equitable relief or other proceeding is brought in the Tribal Court by any party to any contract or instrument described in § 402(a) of this Code, the Tribal Court shall not review the merits of the pending action or proceeding, but shall stay the action or proceeding until an arbitration has been had in compliance with the agreement.

(b) A party to any contract or other instrument described in § 402(a) of this Code claiming the neglect or refusal of another party thereto to proceed with an arbitration thereunder may make application to the Tribal Court for an order directing the parties to proceed with the arbitration in compliance with their agreement. In such event, the Tribal Court shall order the parties to arbitration in accordance with the provisions of the contract or other instrument and the question of whether an obligation to arbitrate the dispute at issue exists shall be decided by the arbitrator(s).

§ 406. Advice of the Court on Tribal, State or Federal Law. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

At any time during an arbitration, upon request of all the parties to the arbitration, the arbitrator(s) may make application to the Tribal Court for advice on any question of Band law or state or federal law arising in the course of the arbitration so long as such parties agree in writing that the advice of the Court shall be final as to the question presented and that it shall bind the arbitrator(s) in rendering any award.

§ 407. Time Within Which Award Shall be Rendered; Notice to the Parties. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) If the time within which an award is rendered has not been fixed in the arbitration agreement, the arbitrator(s) shall render the award within 30 days from the date the arbitration has been completed. The parties may, by written agreement, agree to extend the time in which the award may be made.

(b) An arbitration award shall be in writing and signed by the arbitrator(s). The arbitrator(s) shall provide written notice of the award to each party by certified or registered mail, return receipt requested.

§ 408. Application for Order Confirming Award; Record to be Filed with Clerk of Court; Effect and Enforcement of Judgment. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

(a) At any time within one year after an arbitration award has been rendered and the parties thereto notified thereof, any party to the arbitration may make application to the Tribal Court for an order confirming the award.

(b) Any party applying to the Tribal Court for an order confirming an arbitration award shall, at the time the award is filed with the Clerk of the Tribal Court for entry of judgment thereon, file true and correct copies of the following papers with the Clerk: (1) the agreement to arbitrate; (2) if applicable, the Tribal Council resolution approving application of this Code; (3) written identification of the arbitrator(s) and any material documenting the selection or appointment of the arbitrator(s); (4) any

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written agreement requiring the reference of any question as provided in § 406; (5) each written extension of the time, if any, within which to make the award; (6) the award; and (7) evidence that all parties to the arbitration have received notice of the filing or the intent to file an application to the Tribal Court for confirmation of the arbitration award.

(c) An arbitration award shall not be subject to review or modification by the Tribal Court, but shall be confirmed strictly as provided by the arbitrator; provided, that the Tribal Court may nevertheless decline to enforce any arbitration award if it finds that any of the following occurred:

(1) The award was procured by corruption, fraud, or undue means;

(2) There was evident partiality or corruption in the arbitrator(s);

(3) The arbitrator(s) were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or

(4) The arbitrator(s) exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

Where an arbitration award is so vacated, the Tribal Court may, in its discretion, direct a rehearing by the arbitrator(s).

(d) In any of the following cases where the Tribal Court is authorized to make an order regarding arbitration, the Tribal Court may make an order modifying or correcting the arbitration award upon the application of any party to the arbitration:

(1) Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award;

(2) Where the arbitrator(s) have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted; or

(3) Where the arbitration award is imperfect in matter of form not affecting the merits of the controversy.

The order may modify and correct the award, so as to effect the intent thereof and promote justice between the parties.

(e) The judgment confirming an award shall be docketed as if it were rendered in a civil action. The judgment so entered shall have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment in a civil action, and it may be enforced as if it has been rendered in a civil action in the Tribal Court. When the award requires the performance of any other act than the payment of money, the Tribal Court may direct the enforcement thereon in the manner provided by law.

§ 409. Arbitration Award Not Appealable. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

No further appeal may be taken from an order issued by the Tribal Court pursuant to this Code enforcing an agreement to arbitrate or an award issued by an arbitrator.

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§ 410. Jurisdiction of the Tribal Court. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

To the extent allowed by federal law, the jurisdiction of the Tribal Court over any action to enforce an agreement to arbitrate, to compel arbitration pursuant to such an agreement to arbitrate and to enforce an award made by an arbitrator pursuant to such agreement to arbitrate, contained in any contract, agreement or other instrument described in § 402(a) of this Code, shall be concurrent with the jurisdiction of any state or federal court to the jurisdiction of which the parties to such contract, agreement or other instrument shall have explicitly consented therein. Any consent to the jurisdiction of a state or federal court contained in a contract, agreement or other instrument described in § 402(a) of this Code, and any waiver of the obligation of the parties to exhaust Tribal Court remedies shall be valid and enforceable in accordance with its terms when approved in writing by the Tribal Council.

§ 411. Police Powers and Judgment Enforcement Remedies. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

The Band's police powers shall be available to secure and support any arbitration award under this Code, and all police or other law enforcement officials of the Band shall carry out any orders that may be entered by the Tribal Court pursuant to this Code.

§ 412. Severability. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

If any section or part thereof of this Code or the application thereof to any party shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by federal legislative action, the remainder of the relevant section or part of this Code shall not be affected thereby and shall remain in full force and effect.

§ 413. No Waiver of Sovereign Immunity. [History: Arbitration Code, adopted by Tribal Act #03-21.1214, enacted by Tribal Council on March 19, 2003.]

Nothing in this Code is or shall be interpreted to constitute a waiver of the sovereign immunity of the Band or any of its officers, employees or agents acting within the scope of their authority.

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CHAPTER 5
Grand Traverse Band Police Department

§ 501. Purpose and Creation of GTB Police Department. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

The purpose of this Code is to establish the GTB Police Department and to delineate the management structure of the GTB Police Department and the allocation of human resources responsibilities and the administration of justice for purposes of maintaining the peace within the Indian Country jurisdiction of the GTB.

§ 502. Definitions. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) "Captain" shall mean the commanding officer of the GTB Police.

(b) "Acting Captain" shall mean the acting commanding officer of the GTB Police.

(c) "Officer" shall mean any member of the GTB police executing the constitutional oath of office.

(d) "Members," "members of the department," or "members of said department" shall mean any employee of the GTB Police Department whether an officer or a civilian employee.

(e) "Tribal Manager" shall mean the person identified by Article XII Section 2 (a) ("controlled by the Tribal Council directly or indirectly through a Tribal Manager").

(f) "Department" shall mean the GTB Police.

(g) "Tribal Government" is the Grand Traverse Band of Ottawa and Chippewa Indians. For purposes of this Code, Tribal Government does not include the Economic Development Corporation, any entity owned by the Economic Development Corporation, or any other entity chartered by the Tribal Council.

(h) "Department Manager" shall mean the person designated by the Tribal Council as the programmatic manager of the Public Safety Department of the GTB.

(i) "Dismissal" means:

(1) A termination, including that resulting from the elimination of a position, of an employee by an employer;

(2) A layoff or suspension of an employee by an employer for more than two consecutive months; or

(3) A quitting of employment or a retirement by an employee induced by an act or omission of the employer, after notice to the employer of the act or omission without appropriate relief by the employer, so intolerable that under the circumstances a reasonable individual would quit or retire.

(j) "Tribal Court" means the Grand Traverse Band Tribal Court.

§ 503. GTB Police, Creation of Department, Membership; Authority and Chain of Command. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

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(a) There is hereby created a department of the Tribal government which shall be known and designated as the GTB Police Department within the GTB Department of Public Safety. The Captain of the GTB Police Department shall be in charge of the GTB Police Department as its executive head, and he or she shall have complete and direct supervisory control over all constitutional commissioned officers and civilian police personnel of the GTB Police Department. The Captain shall be appointed by the Tribal Council, with the advice and recommendation of the Tribal Manager, and shall hold office during competent administration.

(b) The Department Manager of the Department of Public Safety shall be in charge of the program management functions of the GTB Police Department and have co-supervisory authority, in conjunction with the Police Captain, over the employees of the GTB Police Department.

(c) The Captain of the GTB Police Department and the Department Manager of the Department of Public Safety for administrative purposes shall report to the Tribal Manager.

(d) Nothing in this section shall impair the independent law enforcement duties of the Captain to pursue law enforcement actions consistent with Tribal or Federal law.

(e) The Captain may appoint or designate two officers among the seven highest ranking commissioned officers of the department to serve in order of precedence, as named, as acting Captain in his or her absence from the office, during his or her illness or during his or her disability for any reason to perform his or her duties, provided, however, that any such officer so acting shall receive no additional compensation by virtue of the interim appointment. An officer appointed as acting captain may be relieved of such appointment at the will of the Captain.

(f) The grades and duties of the officers of the GTB Police Department shall be captain, sergeant, corporal, policeman and policewoman. The officers shall be authorized to carry arms either openly or concealed. Every member of the GTB Police Department shall be subject to orders at any time, the officers shall at all times have the authority to apprehend criminal and preserve law and order.

§ 504. Divisions; Officers; Termination of Officers; Hearing; Civilian Employees. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) The GTB Police Department shall consist of a uniformed division, a detective division and such other divisions that may be established by law or by the Captain in his or her discretion. The Captain shall appoint and employ all members of the GTB Police Department and they shall be classified as officers or civilian employees.

(b) All persons appointed as officers shall be at the time of their appointments not less than 21 years of age and not more than a maximum age limit to be determined by the Captain in his or her discretion.

(c) All persons appointed as officers shall execute the constitutional oath of office before entering upon their duties.

(d) No officer shall be dismissed, except when insufficient funds require a reduction in expenditures in which case the officer or officers shall be dismissed consistent with 1) Indian preferences and then 2) term of service with the Tribe and those officers junior in time shall be dismissed.

(e) Termination for cause shall only be permitted upon a hearing as hereafter provided in §§ 507 and 508 of this chapter.

(f) Civilian employees may be terminated consistent with the GTB administrative dismissal process as established by the Tribal Council in the GTB Personnel Policy.

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§ 505. Captain and Officers; Powers and Duties. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) The Captain and each officer of the GTB Police Department are vested with the powers of a conservator of the peace. They may also apply to any judicial officer of the Tribe for the issuance of search warrants, warrants of arrest or any other criminal process, or orders necessary when the institution of criminal proceedings for the discovery or punishment of crime of any degree is ordered in writing by the GTB Prosecutor consistent with 3 GTBC Chapter 1.

(b) The Captain and each officer of the GTB Police Department have all the immunities and matters of defense available to conservators of the peace or commissioned tribal and federal officers, or both, in any action brought against them by virtue of acts done in the course of their employment.

(c) Any member of the GTB Police Department may serve and execute all criminal and civil process, when directed to do so by the Tribal Manager or the GTB Prosecutor, in actions and matters in which the Tribe is a party. The Captain and the GTB Police Department are under the immediate control and direction of the Tribal Manager in matters not directly related to law enforcement.

(d) The GTB Prosecutor may direct that the GTB Police officers conduct a specific investigation or matter in any matter the GTB Prosecutor is charged with the responsibility thereof under 3 GTBC Chapter 1.

(e) The Captain may, upon the order of the Tribal Manager, or extemporaneously under exigent circumstances, call upon any sheriff or other police officer of any unit of state or federal government, within the limits of their respective jurisdictions as contained in an independent cross-deputization intergovernmental agreement or memoranda of the Tribe and the unit of State government or any superintendent federal law governing the relationship between federal law enforcement agencies and the Tribal law enforcement agency, for aid and assistance in the performance of any duty imposed by this Code and Tribal jurisdiction under Indian Country jurisdictional standards of 18 U.S.C. § 1151.

(f) The Captain shall formulate and put into effect plans and means of cooperating with the local police and peace officers throughout the Indian Country jurisdiction, 18 U.S.C. § 1151, of the Tribe for the purpose of the prevention and discovery of crimes and the apprehension of criminal.

(g) The Captain is hereby authorized, with the approval of the Tribal Manager and only upon specific motion of the Tribal Council, to appoint GTB conservation officer as special GTB police officer, who shall be vested with the powers of an officer of the GTB Police, and who shall in his or her capacity as special GTB police officer be under the direction of the Captain.

§ 506. Duties of the Department Manager of the Public Safety Department in Relation to the Captain of the GTB Police Department and the Tribal Manager. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) The Department Manager of the Department of Public Safety shall have the principal administrative duty of developing all policy and procedures manuals consistent with applicable federal, state and tribal law.

(b) Setting performance standards for the GTB Police certification and evaluation standards for GTB Police civilian personnel.

(c) Preparation of the GTB Police annual and capital budgets for submission to the GTB Office of Management and Budget consistent with budget cycle as defined in applicable federal and tribal

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appropriation law.

(d) Administration of the GTB Police Budgets and the filing of financial reports with the appropriate federal, state and tribal appropriation agency.

(e) The Department Manager of the Department of Public Safety is under the direct supervision of the Tribal Manager.

(f) Nothing in this section shall impair or limit the independent duty of the Captain to make independent law enforcement decisions consistent with federal and tribal law.

§ 507. Rules and Regulations. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) The Captain shall make and adopt rules and regulations for the direction, control, discipline and conduct of the members of the GTB Police Department, for promotion on the basis of Indian Preference and seniority of service, of the officers of the Department.

(b) The Captain shall develop regulations for the filing and hearing of charges against such officers and the Captain may make any other rules and regulation for the governing and operation of the GTB Police Department as shall appear to him reasonably necessary to carry out the purposes of this Code.

§ 508. Hearings. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) A trial board to hear charges against officers of the GTB Police Department consisting of the Captain and two officers from among the commissioned officers of the department, senior in service, shall be appointed by the Captain. The Captain shall be the presiding officer hereof and make all necessary rulings during the course of any hearing. He shall also make rules and regulations for the filing of verified written charges against an accused officer, for a hearing upon the written charges in not less than 10 days' notice and for an opportunity for the charged officer to produce proof of a defense.

(b) The Captain or the officer acting in the Captain's stead as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence in support of charges, and shall issue subpoenas for witnesses for the defense and shall on his or her own motion if he or she have knowledge or is independently informed of other persons having knowledge of the matters charged compel their attendance at the hearing by subpoena.

(c) Persons summoned as witnesses before the trial board shall be entitled to witness fees and mileage for traveling, as provided by GTB Court Rules for witnesses. Failure or refusal to obey any such subpoena shall be brought to the attention of the Tribal Court and shall be punished by the Tribal Court as contempt.

(d) Upon written order of the Captain, any officer appointed or designated to act in the absence as acting captain may sit in his or her place and stead as presiding officer of the trial board.

(e) If the trial board finds the charges credible based upon an evidentiary standard of clear and convincing then the trial board shall make a finding of guilty and recommend either removal of the officer or such disciplinary punishment as prescribed by the rules and regulations which, in their opinion, the offense merits; thereupon the Captain shall direct such removal or punishment. If any officer refuses to abide by any such disciplinary order, the Captain may be ordered to remove him or her forthwith. Nothing herein contained shall require a hearing before said board before disciplinary

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measures may be taken by the Captain or any commanding officer for the punishment of minor infractions of the rules and regulations of the department.

(f) Review by the Tribal Court shall only affirm or reverse the trial board decision on a standard of review that the decision is arbitrary and capricious and not supported by the evidence. In no event shall actual or consequential damages be allowed.

§ 509. Incumbents to Continue in Office; Construction of the Chapter. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

(a) Until the Tribal Council may appoint a Captain incident to a resignation or for cause termination as herein provided, the present Captain of the GTB Police Department and the present Department Manager of the Department of Public Safety shall continue in office as such Captain and Department Manager. Nothing herein contained shall be deemed to terminate any commission appointment, or employment existing under the present process for the administration of the GTB Police Department.

(b) All matters and orders pending before or made by any officer or department under the Code to the GTB Police Department shall be deemed to be continued with like status for the GTB Police Department. All existing appropriations for the support and maintenance of the GTB Police Department for the performance of any duties are hereby maintained and transferred to this administrative structure contained in this chapter.

§ 510. Disposition of Fees. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

All fees or other money received by the GTB Police Department shall be forwarded to the GTB Office of Management and Budget each month and shall be the property of the Tribe to be deposited in the Tribal Treasury to be disbursed in such manner and for such purposes as may be provided by the Tribal Council.

§ 511. Reports of the Captain. [History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.]

On or before the first day of January of each year the Captain shall make and file with the Tribal Manager a report covering the proceeding year, covering the activities of the GTB Police Department and the receipts and disbursements of the Department. Said report shall be accompanied by the recommendations of the Captain with reference to such changes in the laws applying to or affecting the Department as said Captain may deem appropriate. This report shall serve as the basis for further recommendation, along with an independent assessment by the Tribal Manager, for further legislative action or inaction.

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CHAPTER 6

Grand Traverse Band Citizen Complaint Policy[2]

§ 601. Purpose. [History: Adopted by Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.]

Establish a procedure for members of the Grand Traverse Band to file a written concern or complaint regarding a GTB Police Department action, established procedure or individual officer's conduct.

§ 602. Policy. [History: Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.]

All GTB members can submit a complaint or concern in writing to the Police Department. The complaints/ concerns will be reviewed under the procedures established in this policy. The Police Department will render a decision which will be sent to the citizen. Appeals of Police Department decisions can be made to the Tribal Council. All Tribal Council decisions are final.

§ 603. Procedures. [History: Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.]

(a) Written complaint/concern.

(1) A Citizen Complaint Form can be obtained from the Police Department Dispatch Officer. The complaint should be filled out completely and returned to Dispatch.

(2) Upon receiving the complaint, the Captain of Police will review the form and make assignments within the department staff to investigate the complaint if required, in compliance with 3 GTBC § 508.

(3) The Police Department will send a letter to the complainant confirming receipt of the complaint form within 72 hours of receiving the complaint.

(4) An investigative report will be completed and reviewed by the Captain of Police within 14 calendar days of receiving the complaint. The complainant will be sent a letter outlining the conclusions of the investigation.

(5) A monthly report shall be submitted to the Tribal Council outlining each Citizen's Complaint that was filed for that month and its conclusion.

(b) Appeal procedures.

(1) If a GTB citizen is not satisfied or disagrees with the conclusions provided by the Police Department, an appeal can be made to the Tribal Council by submitting a written request to the GTB Legal Department within seven days of the rendering of the Police Department's decision.

(2) Appeals to the Tribal Council will be in writing with all points of contention outlined. Any proofs or supporting documentation must be submitted to the Council along with the appeal.

(3) The Tribal Council will review all appeals and render a decision, or hold a hearing at the next regularly scheduled Tribal Council Session.

(4) The hearing will be closed to the public. All people that are sources of information will be required to provide testimony before the Council.

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2. Editor's Note: Former Ch. 6, GTB Police Commission, adopted by Tribal Act #05-23.1507, enacted by Tribal Council on 6-15-2005, was dissolved by Tribal Act #07-25.1784, enacted by Tribal Council on 6-20-2007.

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(5) The Council will draw conclusions from the hearing and render a decision as to whether the original complaint was meritorious or non-meritorious.

(6) In the event the Council deems the original complaint to be meritorious, the Council shall recommend an appropriate action to the Captain of Police.

(7) In the event the Council deems the original complaint to be non-meritorious, the matter shall be dismissed. The Tribal Council's decision is final.

(8) The Council will provide a decision on all hearings within a reasonable amount of time.

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CHAPTER 7
Contempt of Tribal Court Ordinance[3]

§ 701. Contempt of Tribal Court; Civil. [History: Adopted by Tribal Act #06-24.1628, enacted by Tribal Council on February 22, 2006.]

(a) Definition of Contempt. Willful misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any civil proceeding by the Tribal Court, or which obstructs or interferes with the administration of justice by the Tribal Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court shall constitute contempt of Tribal Court. The willful failure of a party to comply with the terms of a civil judgment directed against her/him, with which she/he is able to comply, shall be held in civil contempt of the Tribal Court, which shall be punished by the Tribal Court in the manner prescribed by this Ordinance.

(b) Contempt in Presence of Court. When civil contempt of Tribal Court is committed in the presence of a Tribal Judge it may be punished summarily by that Tribal Judge. In such case an order shall then be made reciting the facts constituting the civil contempt, adjudging the person guilty of civil contempt, and prescribing the punishment for such civil contempt in accord with Chapter 7, § 701(d) of this Ordinance.

(c) Contempt Outside Presence of Court. When it appears upon a verified statement filed with the Tribal Court reciting with particularity the alleged acts and/or omissions constituting civil contempt to the Tribal Court, which contempt may have been committed out of the presence of the Tribal Court, the Tribal Court may issue a summons to the person so charged directing her/him to appear at a time and place designated for a hearing on the matter. If such person served with the summons fails to appear at the time and place so designated, the Tribal Court shall conduct a hearing, and if it finds her/him guilty of civil contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person subject to civil contempt, and prescribing the fine for such civil contempt in accord with Chapter 7, § 701.

(d) Punishment for Contempt. A Tribal Judge may punish for civil contempt by fine or imprisonment, or both; such civil fine not to exceed $200 or imprisonment, based upon extraordinary circumstances as defined by the federal law of civil contempt, not to exceed two days, plus Tribal Court costs.

§ 702. Contempt of Tribal Court; Criminal. [History: Adopted by Tribal Act #06-24.1628, enacted by Tribal Council on February 22, 2006.]

(a) Definition of Contempt. A Tribal Judge may punish for criminal contempt persons guilty of the following acts:

(1) Disorderly, contemptuous, or insolent behavior toward the Tribal Judge while holding Court, tending to interrupt the due course of the Tribal Court proceeding.

(2) A breach of the peace, boisterous conduct, or violent disturbance in the presence of the Tribal Judge, or in the immediate vicinity of the Tribal Court held by her/him tending to interrupt the due course of a trial or other judicial proceeding.

(3) Disobedience to a subpoena, duly served, or refusing to be sworn or to answer as a witness.

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3. Editor's Note: This ordinance was originally designated as Chapter 4 of Title 3 of the GTBC, but was reassigned as Chapter 7 due to the interim additions of Chapters 4, 5 and 6 to Title 3.

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(4) Disobedience or resistance to the carrying out lawful order or process made or issued by the Tribal Judge.

(5) Interfering with any person or property in the custody of an enforcement officer acting under an order of the Tribal Court or process of the Tribal Court.

(6) Executing a complaint as a complaining witness and failing to appear or testify in support thereof.

(b) Contempt Committed in Presence of Judge. When criminal contempt is committed in the immediate view and the presence of the Tribal Judge, it may be punished summarily. The Tribal Judge must make an order reciting the facts as they occurred, and that the person proceeded against is guilty of criminal contempt, and that she/he be punished as therein prescribed.

(c) Contempt Committed Not in Presence of Judge. When criminal contempt is not committed in the immediate view and presence of the Tribal Judge and upon a verified statement filed with the Tribal Court reciting with particularity the alleged acts and/or omissions constituting criminal contempt, a Warrant of Arrest may be issued by such Tribal Judge and the person may be arrested and brought before the Tribal Judge immediately. The Tribal Judge must give the arrested person an opportunity to answer the verified complaint. The Tribal Judge may then discharge her/him or may convict her/him of criminal contempt.

(d) Punishment. A Tribal Judge may punish for criminal contempt by fine or imprisonment, or both; such fine not to exceed $200 or imprisonment not to exceed 14 days plus Tribal Court costs.

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GRAND TRAVERSE BAND CODE

Title 4

BUDGET & FINANCIAL OPERATIONS

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CHAPTER 1
Appropriations Act

§ 101. Purpose. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

The purpose of this Act is to implement a method for preparing and adopting a budget for Tribal Governmental Operations and Programs. This Act hereby supersedes all previous and prior Appropriations and Budget acts, resolutions or ordinances.

§ 102. Definitions. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session March 29, 2000; as amended by Tribal Council January 17, 2001.]

For purposes of this Act:

(a) Appropriation. Action by the Tribal Council that permits Tribal agencies to incur obligations and to make payments out of the Tribal General Fund, Housing Fund, or Enterprise Fund(s) for specified purposes.

(b) Borrowing Authority. Delegated Tribal Council authority in substantive or appropriation action of the Tribal Council that permits a Tribal subdivision to incur obligation and to liquidate those obligations out of borrowed moneys.

(c) Budget Authority. A general term referring to various forms of authority provided by Tribal law to enter into obligations which will result in immediate or future outlays of Tribal governmental funds.

(d) Chief Executive. The Chief Executive of the Grand Traverse Band is the Chairman of the Tribal Council.

(e) Contract Authority. A form of budget authority which permits contracts or other obligations to be entered into in advance of an appropriation or in excess of amounts otherwise available.

(f) CPI. Consumer Price Index, a federal government economic indicator used to determine the cost of living for any particular year expressed as a percentage of increase over the previous year.

(g) Executive Budget. A balanced budget prepared by Tribal Manager for coming fiscal year with assistance of appropriate Tribal administrative staff.

(h) Fiscal Year. The time period designated by the Tribal Council for budgeting and accounting purposes.

(i) GTB. Grand Traverse Band of Ottawa and Chippewa Indians.

(j) Tribal Agency. Includes any Tribal Department, housing program, enterprise, commission or committee authorized by the Tribal government.

(k) Tribal Governmental Operations. Tribal Council, Tribal Judiciary.

(l) Tribal Governmental Programs. Various Tribal, state and federal assistance programs providing health, education and welfare services to Tribal members, administered by the GTB.

§ 103. Fiscal Year. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996,

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affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

The fiscal year shall be October 1 to September 30.

§ 104. Budget Formulation and Transmittal. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.]

(a) The Tribal Manager shall prepare a balanced executive budget for the coming fiscal year and shall submit the balanced executive budget to the Tribal Council by February 28.

(b) Formulation of the executive budget shall consist of the following steps:

(1) The Tribal Manager shall review current Tribal programs against program objectives and program results;

(2) In consultation with the GTB Economic Development Corporation, the Tribal Manager and Chief Financial Officer (CFO) shall estimate the expected income from Tribal gaming operations for purposes of the Revenue Allocation Ordinance No. 94-117, as amended;

(3) The Tribal Manager shall prepare a summary of Tribal priorities and objectives as articulated by the Departments of the Tribe, authorized Tribal committees, housing services and enterprises operated by the Tribe;

(4) The CFO shall review previous appropriation actions of the Tribal Council in conjunction with existing directives of the Tribal Council regarding the Tribal development plans or plans for the delivery of governmental services.

§ 105. Composition of the Budget. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

The executive budget shall consist of the following subsections:

(a) Tribal Council Support. Permanent appropriation which once made is always available for specific purposes and does not require repeat action by the Tribal Council to authorize its use. Additional funding may be appropriated in subsequent years on an annual basis to meet increased needs.

(b) Tribal Judiciary Support. Permanent appropriation of $505,421 as base funding which once established is available for judicial purposes and does not require repeat action in subsequent budget years by the Tribal Council to authorize its use. Additional funding may be appropriated in subsequent years on an annual basis to meet increased needs.

(c) Tribal Governmental Support. Indefinite appropriation; an appropriation of an unspecified amount of money. An indefinite appropriation may appropriate all or part of the receipts from certain sources, the specific amount of which is determinable only at some future date, or it may appropriate "such sums as may be necessary" for a given purpose.

(d) Tribal Programs. Indefinite appropriation; an appropriation of an unspecified amount of money. An indefinite appropriation may appropriate all or part of the receipts from certain sources, the specific amount of which is determinable only at some future date, or it may appropriate "such sums as may

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be necessary" for a given purpose.

§ 106. Presentation and Approval of Proposed Executive Budget. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

(a) A proposed balanced executive budget shall be presented to the Tribal Council by February 28.

(b) Public Hearings. The Tribal Council shall conduct three public hearings on the proposed budget between February 28 and May 31.

(c) Reconciliation of Program Requests with Available Funding. Based on the three public hearings and records, the Tribal Council will reconcile the proposed executive budget and subsequent budget requests with available funding based on the policy process of deliberation.

§ 107. Tribal Budget Execution and Control. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.]

(a) The final fiscal year budget shall be approved and adopted by the Tribal Council during the month of August.

(b) Balanced Budget. The budget for the government of the GTB shall be balanced. Programs and budgeted items shall be subject to funding availability. Surplus funds at the end of the year may be carried forward for reallocation in the next fiscal year.

(c) Mid-Year Review of Budget by Tribal Council. The Tribal Council shall review indefinite appropriations of the budget at mid-year and reallocate funds appropriations based on the recommendations of the Tribal Manager based on the Tribal Manager's consultation with appropriate Tribal administrative staff.

(d) Contract Authority. The Tribal Chair and the Tribal Manager shall recommend to the Tribal Council, based on a review of Tribal priorities, contracts that the Tribal Departments, housing programs, enterprise fund, commission or committee should enter into for the upcoming fiscal year.

(e) Emergency Allocations. The Tribal Council shall have the right to make emergency appropriations, allocations or re-allocations of funds as needed and to borrow money to cover such appropriations, allocations or re-allocations if necessary.

(f) Modifications. All modifications to approved budgets exceeding 5% need the approval of the Tribal Council.

(1) Line item modifications within an approved budget which do not alter the budgeted total by more than 5% must be approved by the Tribal Manager.

(2) Any change in the scope of a program must be approved by the Tribal Council.

§ 108. Unexpended Balances. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

(a) Annual Carry-Over Process. Funds remaining within the Indian Health Service and Bureau of Indian

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Affairs budget will be analyzed by the Tribal Manager. The Tribal Manager, with input from appropriate Tribal administrative staff, will present recommendations to the Tribal Council for approval.

(b) Approval for Carry-Over of RAO Funds. Funds remaining within the Tribal Revenue Allocation Ordinance (RAO) shall be analyzed by the Tribal Manager and CFO and recommendations shall be made to the Tribal Council for approval.

(c) Grants, compacts, and contracts are subject to their own carry-over federal regulations.

(d) The recommendations of the Tribal Manager regarding carry-over requests will be presented to the Tribal Council in accordance with Section 107(c) of this Act.

(e) Time extension. Extension of time in program time periods by the Tribal Council shall only be considered under unusual and rare circumstances based on recommendations from the Tribal Manager and CFO.

§ 109. Audit and Review. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.

(a) Every Tribal Department, housing program, enterprise fund, commission or committee has the initial and fundamental responsibility to assure that its application of public funds adheres to the terms of the pertinent authorization as well as relevant Tribal, federal or state statutory provisions.

(b) The Chief Financial Officer or his/her designee has the authority to review whether the applicable accounting and internal controls, including an internal audit function, is appropriate and functioning for the Tribal Department, housing program, enterprises fund, commission or committee.

(c) The CFO and Tribal Manager shall assure that the preparation of an audit of financial statements of the various Tribal Departments, housing program, enterprise fund, commission or committee is prepared in a timely manner in compliance with applicable federal, state, or Tribal regulations.

(d) The Tribal Manager in consultation with the Tribal Council shall establish an autonomous review function to examine the financial, management and program activities of Tribal Departments, housing programs, enterprise funds, commission or committee and to evaluate the efficiency, effectiveness, and economy of the agency's operation. Findings and recommendations are transmitted to the appropriate agency and the Tribal Council.

§ 110. Effective Date. [History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.]

The effective date of this Act is November 15, 2000, and supersedes all prior budget and appropriations acts, ordinances, or resolutions.

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CHAPTER 2

(Reserved)

[History:Former Ch. 2, Budget Act (comprised of 4 GTBC §§ 201 through 213), derived from Tribal Act #95-13.289(2), enacted by Tribal Council on November 6, 1995, was repealed by the Appropriations Act of 1996 (which is included in Ch. 1 of this Title), pursuant to an amendment enacted by Tribal Council January 17, 2001.]

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CHAPTER 3
Audits

§ 301. Tribal Manager Responsibilities for Audit Recommendations. [History: Tribal Act #84-205, enacted by Tribal Council on March 8, 1984.]

The Tribal Manager of the Tribe is henceforth directed to provide for Tribal Council, within appropriate time of auditor submission of recommendations and findings, resolution of same.

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CHAPTER 4
Internal Revenue Service Ordinance

§ 401. Limitation; Reservation of Rights. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) Sections 403 through 405 of this ordinance will apply only to Indian lands whether held in trust or fee status, located within the exterior boundaries of the Grand Traverse Band Reservation as defined by Article I, Section 2(b) of the Grand Traverse Band's federally approved constitution.

(b) Nothing contained in this ordinance shall be construed as a relinquishment of Tribal sovereignty over lands located within the exterior boundaries of the Grand Traverse Band Reservation as defined by Article I, Section 2(b), of the Tribal Constitution.

(c) The Tribal Council expressly reserves the right to exercise Tribal sovereignty over all non-Indian lands located within the boundaries of the Grand Traverse Band Reservation, as defined by Article I, Section 2(b) of the Tribal Constitution, to the extent permitted by federal law, the Tribal Constitution and Bylaws, and the Tribe's federal charter.

(d) Definitions:

(1) "Agreement Area" means the area designated as such in the Tax Agreement.

(2) "Tax Agreement" means the agreement between the State of Michigan and the Grand Traverse Band of Ottawa and Chippewa Indians entered into on [date].

(3) "Indian Country" means those lands considered "Indian Country" under federal law.

(4) "Resident GTB Member" means a GTB Member whose principal place of residence is located within the Agreement Area.

(5) "Taxable Sale" means a sale that is not exempt under Michigan law as modified by the Tax Agreement.

(6) "Tribal and Trust Lands" means land held in trust by the federal government for the benefit of the Tribe and fee lands owned by the Tribe that is listed in the Tax Agreement as Tribal and Trust Land.

(7) "Tribal Entity" means a business entity, other than a single Resident GTB Member or an entity wholly owned by the Band, that is wholly owned by any combination of the Band and Resident GTB Members, or is wholly owned by Resident GTB Members.

(8) "State" means the State of Michigan.

§ 402. Establishment of Tribal Revenue Department. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) There is hereby established a Tribal Revenue Department, which shall be responsible for collecting all business permit fees and income taxes imposed by the Tribal Council under this ordinance.

(b) The Tribal Revenue Department shall also be responsible for collecting all other taxes, permit fees, licenses fees and penalties imposed by other ordinances adopted by the Tribal Council.

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(c) All taxes, permit fees, license fees, penalties or other revenues received by the Grand Traverse Band Revenue Department shall be deposited by the Tribal Treasurer in the General Fund of the Grand Traverse Band and shall be expended for public purposes only as the Tribal Council may (by resolution) direct.

(d) The Tribal Revenue Department shall employ a Director consistent with the Tribe's wage grid personnel manual. The Director, and all staff employed by the Tribal Revenue Department, shall be under the direct supervision of the Tribal Treasurer and shall perform such duties and responsibilities contained in their job descriptions.

§ 403. Business Permits Required to Engage in Business on Reservation. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) All persons or entities doing business on the Grand Traverse Band Reservation shall purchase a business permit prior to engaging in business on the reservation. All business permits shall have a duration of one year, and may be renewed on a year-to-year basis. In order to qualify for any benefits any exemptions articulated in the Tax Agreement, Tribal Entities doing business within the Agreement Area must purchase a business permit. As a condition of citizenship in the Grand Traverse Band and as a condition for the privilege of doing business on the Reservation or within the Agreement Area, GTB Members and GTB Member-owned businesses consent to the terms and conditions of the Tax Agreement.

(b) Fee Schedule For Business Permits. The following fee schedule is hereby established for all business permits:

(1) Tribal members and businesses owned by Tribal members doing business on the reservation: $5.

(2) Non-Indians and non-member Indians, and corporate businesses owned by non-Indians and non-member Indians, doing business on the reservation:

(A) Class A Permit: Any person or corporate business owned by a non-Indian or non-member Indian doing business on the reservation (except peddlers): $150.

(B) Class B Permit: For seasonal peddlers (those doing business for three consecutive months or less): $100.

(C) Class C Permit: Daily peddlers (those doing business for 10 consecutive days or less): $50.

§ 403A. Registration with State of Michigan Department of Treasury. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

In order to qualify for the benefits of the Tax Agreement, GTB Members and Tribal Entities must register with the State of Michigan Department of Treasury and obtain such licenses and registrations as would be required under State law if such GTB Members or Tribal Entities were operating outside of Indian Country.

§ 404. Income Tax Imposed on Non-Indians and Non-Tribal Members, and Corporate Businesses Owned by Non-Indians and Non-Tribal Members, from Gross Income Earned on the Reservation. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As

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amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

There is hereby imposed the following income taxes on the gross income earned on the reservation by non-Indians and/or non-member Indians, or corporate businesses owned by non-Indians and/or non-member Indians, doing business on the Grand Traverse Band Reservation:

(a) 1% of the gross income of all persons or corporate entities earning $50,000 or less on the reservation each calendar year.

(b) 2% of the gross income of all persons or corporate entities earning $50,000 to $150,000 on the reservation each calendar year.

(c) 3% of the gross income of all persons or corporate entities earning $150,000 to $250,000 on the reservation each calendar year.

(d) 4% of the gross income of all persons or corporate entities earning $250,000 to $500,000 on the reservation each calendar year.

(e) 5% of the gross income of all persons or corporate entities earning $500,000 to $1,000,000 on the reservation each calendar year.

(f) 8% of the gross income of all persons or corporate entities earning $1,000,000 to $2,000,000 or more on the reservation each calendar year.

(g) 10% of the gross income of all persons or corporate entities earning $2,000,000 or more on the reservation each calendar year.

§ 405. Tribal Members and Non-member Officials Exempt from Gross Income Taxes. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) No income tax shall be imposed on Tribal members, or corporate businesses owned by Tribal members, for income earned on the Grand Traverse Band Reservation.

(b) The income of all non-Indians or non-member Indians holding a public office within the Grand Traverse Band shall also be exempt from the income taxes imposed by § 404 of this ordinance.

§ 406. Payment and Collection of Permit Fees and Gross Income Taxes and Refunds for Overpayment. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) The Tribal Revenue Department shall adopt rules and regulations that establish procedures for the payment of permit fees and gross income taxes to the Tribe, and the collection of delinquent permit fees and gross income taxes by the Tribe.

(1) The Tribal Revenue Department shall have the authority to adopt forms necessary for the payment or collection of all permit fees and gross income taxes imposed by this ordinance, and to perform all other duties and responsibilities necessary to implement this ordinance.

(2) All rules and regulations promulgated by the Tribal Revenue Department shall be published in at least two local newspapers of general circulation for not less than two consecutive weeks, and shall allow for public comment and input before they become final.

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(b) If it shall appear subsequent to the receipt of gross income tax proceeds by the Tribal Revenue Department that an amount of tax, penalty or interest has been paid which was not due under the provisions of this ordinance, whether a mistake of fact or law, then such amount shall be credited against any tax due, or to become due under this ordinance from the person or corporation who made the overpayment, or such amount shall be refunded to such person or corporation by the Tribal Treasurer, provided, that a claim for a refund shall be filed with the Tribal Revenue Department within two years of the collection of the overpayment or such claim shall be forever barred.

§ 407. Sales Tax. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act. #01-19.1015, enacted by Tribal Council via telephone poll on June 21, 2001; and by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) There is hereby imposed a 6% sales tax on all taxable sales within the exterior boundaries of the Grand Traverse Band Reservation or the Agreement Area as defined by the Tax Agreement provided that the retail sales are made by a business entity that is operated by the Tribe or by a Tribal Entity or by a business owned by a GTB Member.

(b) This sales tax shall not apply to sales of motor fuels to wholly owned vehicles of the GTB providing essential governmental services consistent with the provisions of 26 U.S.C. § 7871. For purposes of this subsection, GTB deems the activities of the GTB/EDC, authorized by 25 U.S.C. § 477, as an essential government service based on the 100% Tribal tax on GTB/EDC under 25 U.S.C. § 2710(b)(3) (implementing regulations 25 CFR 290), and the specific approval of the GTB RAO (codified herein at 18 GTBC § 1601 et seq., Chapter 16, Revenue Allocation Ordinance) by the Secretary of the Interior on June 1, 2000.

§ 408. Implementation of Tax Agreement Between GTB and State of Michigan. [History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.]

(a) Purpose. The purpose of this section is to implement the Tax Agreement entered into by the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan.

(b) GTB Sales Tax Revenue Sharing. The Tribe must share the sales tax collected in accordance with this Ordinance as follows:

(1) On the first $5,000,000 of annual gross receipts from Taxable Sales, 2/3 of the tax collected shall be retained by the Tribe and 1/3 paid to the State (but not to exceed the amount payable to the State if the State tax rate were applied).

(2) On annual gross receipts from Taxable Sales in excess of $5,000,000, 1/2 of the tax collected shall be retained by the Tribe and 1/2 paid to the State (but not to exceed the amount payable to the State if the State tax rate were applied).

The Band must, no later than 45 days after the close of each quarter, compile the sales tax information received during the quarter and send a check to the State together with a schedule showing the calculation of the amount paid to the Band in accordance with the Tax Agreement. The Tribe must pay interest at the statutory rate provided under State law for refunds not paid as of the 45th day following the end of the calendar quarter.

(c) Collection, Remittance and Sharing of Sales and Use Taxes Outside of Tribal and Trust Lands. The Band, GTB Members and Tribal Entities operating as retailers anywhere in the State of Michigan

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outside of Tribal and Trust Lands must collect and remit sales tax and use tax to the State in accordance with State procedures generally applicable to retail sellers.

(d) Motor Fuels.

(1) GTB Member and Tribal Entity retailers may only purchase tax-exempt motor fuel from wholesalers selected by the Band. GTB Member and Tribal Entity retailers must prepay all taxes on motor fuel purchases except for quota exempt purchases authorized by the Band.

(2) All motor fuel acquired for resale in excess of the quota must be purchased in accordance with State law from any State licensed wholesaler with State motor fuel taxes prepaid. All retail sales of such motor fuel must include the tax in the retail price.

(e) Tobacco Products.

(1) GTB Member and Tribal Entity retailers may only purchase tax-exempt tobacco products from wholesalers selected by the Band. GTB Member and Tribal Entity retailers must prepay all taxes on tobacco products purchases except for quota exempt purchases authorized by the Band.

(2) All tobacco products acquired for resale in excess of the quota must be purchased in accordance with State law from any State licensed wholesaler with State tobacco products taxes prepaid. All retail sales of such tobacco products must include the tax in the retail price.

(f) Tribal Reporting.

(1) GTB Member and Tribal Entity employers located within the Agreement Area will withhold and remit to the State income tax from all employees who are not Resident Tribal Members.

(2) Consistent with State law, the Band, GTB Members, and Tribal Entities must maintain records (including retention of necessary original receipts) sufficient to substantiate claims for exemption from tax under the Tax Agreement.

(3) GTB Member and Tribal Entity retailers must maintain records regarding sales that are not Taxable Sales under the Tax Agreement.

(4) With respect to sales on which no tax was collected as provided for in the Tax Agreement, GTB Member and Tribal Entity retailers must maintain a record of such sales including the date, the name and Tribal identification number of the purchaser, the amount, and for any item of more than $50 or sales of more than $200 in the aggregate, the identification of the items purchased and any other data sufficient to document the exemption. This section does not apply to sales of motor fuel.

(g) Administration of Tribal Certificates of Exemption.

(1) Issuance of Tribal Certificates of Exemption. A Resident Tribal Member or Tribal Entity must submit to the Tribe a signed Resident Tribal Member/Tribal Entity Claim indicating the requester's name, address, items to be purchased (including identification numbers for vehicles and mobile homes) and, in the case of a Resident Tribal Member, his or her identification number and a certification that the Resident Tribal Member resides within the Agreement Area. In those instances where the claim is made under § III(A)(3) of the Tax Agreement, a signed statement from the contractor stating the location at which materials will be affixed to real estate, the date that the work is to be done, and an estimate as to the amount to be paid for materials must also be submitted to the Tribe by the Resident Tribal Member of Tribal Entity

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seeking authorization. Upon verifying the information provided in the claim and determining that the claim is consistent with the terms of this Agreement, an authorized Tribal representative must complete and sign a Tribal Certificate of Exemption authorizing the Resident Tribal Member's or Tribal Entity's exempt purchase. The certificate must indicate the name of the requester, the items to be purchased including identification numbers for vehicles and mobile homes and, for Resident Tribal Members, the Resident Tribal Member's identification number.

(2) Use of Tribal Certificates of Exemption. If a Tribal Certificate of Exemption is issued to a Resident Tribal Member or Tribal Entity, the Resident Tribal Member or Tribal Entity must present the Certificate (together with the Letter of Authorization) to the vendor or contractor at the point of purchase. In those instances where the claim is made for purchase of material affixed to real property by a contractor under § III(A)(3) of the Tax Agreement, the Resident Tribal Member or Tribal Entity must also submit a signed statement from the contractor stating the location at which materials will be affixed to real property, the date that the work is to be done, and an estimate as to the amount to be paid for materials.

(3) Retention of Records. The Resident Tribal Member or Tribal Entity must maintain a copy of all Tribal Certificates of Exemption used.

(h) Enforcement.

(1) Enforcement Action Against Non-Tribal Members in Indian Country. In accordance with the Tax Agreement, the State may exercise its tax enforcement authority under State law with respect to a Non-Tribal Member or non-Tribal Entity located or doing business within Indian Country provided, however, that where the Non-Tribal Member or non-Tribal Entity is located or doing business on trust lands, the State must, before taking any enforcement action that requires entry upon such lands, provide notice of the proposed enforcement action to the Tribal police. Upon receipt of such notice, the Tribal police may direct one or more officers to accompany the State officers during the enforcement activity. If the Tribal police or public safety department is unable or unwilling to promptly assign a Tribal officer to accompany the State officers the State officers may, nonetheless, carry out the proposed enforcement action against the Non-Tribal Member or non-Tribal Entity without the participation of a Tribal officer.

(2) Enforcement Action Against GTB Members and Tribal Entities.

(A) Notice of Audit. In accordance with the Tax Agreement, the State has the authority to conduct audits of GTB Members residing within Indian Country and Tribal Entities whose principal place of business is located within Indian Country with respect to taxes that are the subject of the Tax Agreement. Prior to conducting any such audit, the State must provide the Tribal Member or Tribal Entity with at least 30 days advance written notice. The notice must include a statement of the business or entity to be audited, the tax(es) involved in the audit, and the taxable period(s) at issue. Audits of GTB Members who reside outside of Indian Country and Tribal Entities whose principal place of business is located outside of Indian Country will be conducted in accordance with State law.

(B) Enforcement of State Judicial Orders Outside of Indian Country. In accordance with the Tax Agreement, the State may exercise its enforcement authority under State law with respect to the property of a GTB Member or Tribal Entity where the property is located outside of Indian Country. Further, the State may exercise its enforcement authority under State law with respect to a Tribal Member or Tribal Entity whose person is located outside of Indian Country.

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(C) Enforcement of State Judicial Orders Within Indian Country. In any case where the State has obtained a State Court judgment or order affecting the person or property of a GTB Member or Tribal Entity located within Indian Country, the State may petition the Tribal Court to grant recognition and enforcement of the State court order or judgment. The Tribal Court must, within 14 business days, rule on the petition using the same standards as contained in Michigan Court Rule 2.615. If the Tribal Court grants the petition, the Tribal Court, upon request of the State, must promptly direct one or more Tribal police or public safety officers to enforce the judgment or order in the presence of and with the assistance of one or more State enforcement officers.

(D) State Exercise of Non-Judicial Enforcement Actions Outside of Indian Country. In accordance with the Tax Agreement, the State may exercise its tax enforcement authority under State law, with respect to the property of a GTB Member or Tribal Entity where the property is located outside of Indian Country. Further, the State may exercise its tax enforcement authority under State law with respect to a GTB Member or Tribal Entity located outside of Indian Country.

(E) State Exercise of Non Judicial Enforcement Actions Within Indian Country. In accordance with the Tax Agreement, in any case where the State is authorized by State law to compel the production of books and records, to compel the appearance or testimony of an individual, or to undertake an audit where the enforcement action affects a GTB Member or Tribal Entity whose person or property is located within Indian Country, and the taxpayer has failed or refused to comply with the requested State enforcement action, the State may petition the Tribal Court for an order compelling compliance with that enforcement action. The Tribal Court must conduct a hearing on the petition within 10 business days following service by the State on the taxpayer, and must issue its decision within 14 business days of such service on the taxpayer. If the Tribal Court determines that (i) the taxpayer is a Tribal Member or Tribal Entity, (ii) the taxpayer and/or property is located within the Band's Indian Country, (iii) the proposed State tax enforcement action pertains to one or more of the taxes that is the subject of the Tax Agreement, and (iv) the proposed State tax enforcement action is consistent with relevant State law and procedures and with the Tax Agreement, the Tribal Court must grant the petition and must order the taxpayer to comply. In the event that the GTB Member or Tribal Entity fails or refuses to comply with the Tribal Court order, the Tribal Court must promptly direct one or more Tribal police officers to enforce the order with the assistance of one or more State enforcement officers.

(F) State Exercise of Non-Judicial Enforcement Actions Where the Location of Indian Country is in Dispute. In accordance with the Tax Agreement, in any case where the State is authorized by State law to compel the production of books and records, to compel the appearance or testimony of an individual, or to undertake an audit where the enforcement action affects the person or property of a GTB Member or Tribal Entity and there is disagreement between the Band and the State regarding whether the taxpayer or property is located within Indian Country, the State may elect to proceed based upon the assumption that the taxpayer or property is within its enforcement authority under State law. If the taxpayer fails or refuses to comply with the requested State enforcement action, and the taxpayer asserts that the taxpayer or property is located within Indian Country and the State and the Band stipulate that there is a dispute regarding whether the taxpayer or property is located within Indian Country, the State may petition the Tribal Court for an order compelling compliance with the enforcement action. The Tribal Court, for purposes

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of this Ordinance only, and for no other precedential purpose, must treat the location of the taxpayer or property as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(E) above. In the event that the GTB Member or Tribal Entity fails or refuses to comply with the Tribal Court order, the Tribal Court must promptly direct one or more Tribal police officers to enforce the order with the assistance of one or more State enforcement officers.

(G) State Tax Enforcement Actions Outside of Indian Country Prior to a Hearing. In accordance with the Tax Agreement, the State may exercise its authority under State law to seize or inspect property without a prior order or hearing, where the taxpayer is a GTB Member or Tribal Entity whose affected property is located outside of Indian Country.

(H) State Tax Enforcement Actions Within Indian Country Prior to a Hearing. In accordance with the Tax Agreement, in any case where the State is authorized by the Revenue Act, the Tobacco Products Act, or the Motor Fuel Tax Act, to seize real or tangible personal property or inspect such property without a prior order or hearing, and where the taxpayer is a GTB Member or Tribal Entity and the property is located within Indian Country, the Band and the State must jointly execute such action. In such cases, the enforcement action may be taken without first filing a petition in Tribal Court provided that the State gives notice of the need for the proposed action by the Tribal police department. Such notice must specify the grounds for the enforcement action, and the appropriate statutory or regulatory authority for such action. Upon receipt of such notice, the Tribal Chief of Police or designee must promptly direct one or more Tribal police officers to execute the enforcement action jointly with one or more State enforcement officers. The affected GTB Member or Tribal Entity may, within seven days following the enforcement action, file a petition in Tribal Court seeking a review of the enforcement action. If the Tribal Court determines that (i) the taxpayer is a GTB Member or Tribal Entity, (ii) the taxpayer and/or property is located within Indian Country, (iii) the State tax enforcement action pertains to one or more of the taxes that is the subject of the Tax Agreement, and (iv) the State action is in compliance with relevant State law procedures and this Agreement, the Tribal Court must affirm the enforcement action.

(I) The administrative enforcement actions authorized under § 408(g)(2)(H) are:

(i) Actions in furtherance of a jeopardy assessment. [MCL 205.26]

(ii) Inspection of vending machines or places where tobacco products are sold or stored. [MCL 205.426a]

(iii) Seizure of contraband consistent with the Tobacco Products Tax Act. [MCL 205.429]

(iv) Inspections or seizures consistent with the Tax Agreement authorized under the Motor Fuel Tax Act or the Motor Carrier Fuel Tax Act.

(J) Jurisdiction: State Tax Enforcement Actions Prior to a Hearing Where the Location of Indian Country Is In Dispute.

(i) In accordance with the Tax Agreement, in any case where the State proposes to take any authorized enforcement action described in § 408(g)(2)(I) above that may affect the person or property of a GTB Member or Tribal Entity and there is disagreement between the Band and the State regarding whether the affected person or property is

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located within or without of Indian Country, the State may elect to proceed based upon the assumption that the person or property is within its enforcement authority under State law. If the State knows, prior to taking the proposed enforcement action, that (i) the taxpayer is a GTB Member or Tribal Entity, and (ii) there is a dispute between the State and the Band as to whether the site of the proposed action is within Indian Country, the State must give notice of the proposed action to the Tribal police department. Such notice must specify the grounds for the enforcement action and the appropriate statutory or regulatory authority for such action. Upon receipt of such notice, the Chief of Police must promptly direct one or more Tribal police officers to execute the enforcement action jointly with one or more State enforcement officers.

(ii) If the taxpayer wishes to challenge the State enforcement action on the grounds that it is unlawful under State law including any modification to State law made under the Tax Agreement, and the taxpayer asserts that the taxpayer or property is located within Indian Country, and the State and the Band stipulate to the Tribal Court that there is a dispute regarding whether the person or property is located within Indian Country, the taxpayer may petition the Tribal Court to review the propriety of the enforcement action applying State law including any modification to State law made under the Tax Agreement. The Tribal Court, for purposes of this Agreement only, and for no other precedential purpose, must treat the location of the person or property as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(H) above. If the Tribal Court determines that the affected person or property is not located within Indian Country or is not within the stipulated disputed area, the Tribal Court must promptly dismiss the action.

(K) Jurisdiction: Final Tax Assessment Issued or Refund Denied to a Tribal Member Residing or a Tribal Entity Operating Wholly Within Indian Country. In accordance with the Tax Agreement, in any case where the State has issued a final tax assessment or denied a tax refund to a GTB Member residing within Indian Country, or to a Tribal Entity doing business wholly within Indian Country, for a tax imposed upon income, business activity, transactions, or privileges which were realized, occurred, or exercised wholly within Indian Country, and the GTB Member or Tribal Entity wishes to appeal the assessment or denial of refund on the grounds that it is unlawful under (i) State law including any modification to State law made under the Tax Agreement, or (ii) the Michigan Constitution, the U.S. Constitution, or federal law, provided that such claims must be limited to those that are not predicated on Indian Tribal membership, the GTB Member or Tribal Entity may appeal the final assessment or denial of refund to Tribal Court within 35 days of the issuance of the final assessment or denial of refund. The Tribal Court must follow State law relative to the practices and procedures of a case in the Michigan Court of Claims; provided however, that the taxpayer is not required to prepay the contested portion of the tax, penalty, or interest prior to filing the appeal. The uncontested portion of the tax, penalty, or interest must be paid prior to filing the appeal. The Tribal Court must make its ruling within one year of the filing of the appeal.

(L) Jurisdiction: Final Tax Assessment Issued to a Tribal Member or a Tribal Entity or Denial of Refund Where the Location of Indian Country Is In Dispute.

(i) In accordance with the Tax Agreement, in any case where the State has issued a final tax assessment or denied a tax refund to a GTB Member or to a Tribal Entity for a tax which the member or entity asserts is imposed upon income, business activity, transactions, or privileges that were realized, occurred, or exercised wholly within

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Indian Country, and the GTB Member or Tribal Entity wishes to appeal the assessment or denial of refund on the grounds that it is unlawful under (i) State law including any modification to State law made under the Tax Agreement, or (ii) the Michigan Constitution, the U.S. Constitution, or federal law, provided that such claims must be limited to those that are not predicated on Indian Tribal membership, the Tribal Member or Tribal Entity may appeal the final assessment or denial of refund to Tribal Court within 35 days of the issuance of the final assessment or denial of the refund. If the Tribal Court determines all of the income, business activity, transaction, or privilege being taxed was realized, occurred, or was exercised wholly within Indian Country or the stipulated disputed area, the Tribal Court must, for purposes of this Ordinance only and for no other precedential purpose, treat the location of the income, business activity, transaction or privilege as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(K) above.

(ii) If the Tribal Court determines that any of the taxes assessed or refunds denied were for a tax upon income, business activity, transactions, or privileges that were realized, occurred, or exercised within the State but outside of either Indian Country or the stipulated disputed area, the Tribal Court must promptly dismiss the action. Once such a dismissal is entered, the GTB Member or Tribal Entity may, consistent with State law, file a petition with the Michigan Tax Tribunal within 35 days, or a Complaint with the Michigan Court of Claims within 90 days, of the final Tribal Court order of dismissal.

(M) Jurisdiction: Final Tax Assessment or Denial of Tax Refund to a Resident Tribal Member or a Tribal Entity Where Any Portion of the Activity Occurs Outside of Indian Country and Outside of a Disputed Area. State courts or tribunals will be used for the appeal of any final tax assessment or denial of tax refund to a Resident GTB Member or Tribal Entity in those instances where any portion of the income, business activity, transaction, or privilege being taxed was realized, occurred, or was exercised within the State but outside of either Indian Country or any area where the Band and the State have a disagreement as to what constitutes Indian Country.

(i) In any circumstances where the terms of this Ordinance and the Tax Agreement conflict, the Tax Agreement controls.

§ 409. Civil Enforcement of Tax Agreement By Grand Traverse Band of Ottawa and Chippewa Indians Against Tribal Members. [History: § 409 adopted by Tribal Act #04-22.1389 enacted by Tribal Council on May 14, 2004.]

(a) Tribal Court Action. The Tribal Prosecutor is authorized to initiate an action in Tribal Court to recover money paid by the Tribe to the State in accordance with the Tax Agreement:

(1) Where a Tribal Member or Tribal Entity has failed to comply with a final determination of liability for 60 days; or

(2) Where a Tribal Member or Tribal Entity has used a Tribal Certificate of Exemption after the termination of the Tax Agreement.

(b) Civil Remedy.

(1) Civil Money Damages. The Tribal Court may award damages to the Tribe in the amount the

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Tribe paid to the State in accordance with the Tax Agreement for either of the reasons stated in subpart A of this Section, plus interest, costs, and attorney fees. The Tribal Court may enforce its order by garnishing the Tribal Member's wages, Tribal trust funds, and per capita payments.

(2) Suspension or Limitation of Privileges. The Tribal Court may also issue an order suspending or limiting the privileges of Tribal Members under the Tax Agreement upon application by the Tribal Prosecutor.

§ 410. Caregiver Purchase of Tobacco Products and Gasoline on Behalf of Disabled Tribal Member. [History: Tribal Act #09-27.2127, enacted by Tribal Council on February 17, 2010.]

(a) The purpose of this section is to establish a procedure for the purchase of tobacco products and gasoline by a non-eligible caregiver on the behalf of a disabled Tribal member or their legal guardian.

(b) Disabled Tribal members shall designate a caregiver by filling out a form known as the "Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan."[4]

(c) This form shall be available at Eagle Town Market for disabled Tribal members.

(d) The form shall be signed by the disabled Tribal member or their legal guardian, a witness, and shall be subscribed and sworn to by a Notary Public.

(e) Upon execution of the form, a copy will be kept on file with the Eagle Town Market, the GTB EDC Accounting Department, and the GTB Tax Administrator for verification and quarterly auditing purposes as required by the Tax Agreement Between GTB and the State of Michigan.

(f) Designated caregivers shall provide valid photo identification when purchasing the allotted amount of cigarettes [i.e., two packs per day per disabled Tribal member], and/or purchase of gasoline; and shall sign the log sheet located at Eagle Town Market.

(g) Valid photo identification is identified as any of the following: Michigan Driver's License, Michigan State ID, a federally recognized Tribal ID, or a U.S. passport.

(h) No person other than the designated caregiver identified by the Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan and valid identification will be allowed to purchase cigarettes and/or gasoline.

(i) The Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan shall be effective for a period of six months.

(j) Noncompliance with this ordinance shall disqualify the disabled Tribal member or the disabled Tribal member's legal guardian and the designated caregiver from participating in this Tribal program for a period of four months. A letter of noncompliance shall be sent from the GTB Tax Administrator's office to the disqualified disabled Tribal member or the disabled Tribal member's legal guardian and copied to the designated caregiver, Eagle Town Market, and the EDC Accounting Department. This letter will identify the date of the violation, the date of disqualification and the date of reinstatement to the program.

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4. Editor's Note: A copy of this form is included at the end of this chapter.

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Authority of Grand Traverse Band, MI

(k) Repeated noncompliance with this ordinance shall disqualify the disabled Tribal member or the disabled Tribal member's legal guardian and the designated caregiver indefinitely. A letter of disqualification shall be sent from the GTB Tax Administrator's office to the disqualified disabled Tribal member or the disabled Tribal member's legal guardian and copied to the designated caregiver, Eagle Town Market, and the EDC Accounting Department. This letter will identify the date of the violations and the effective date of indefinite disqualification from the program.

(l) A database shall be created by the GTB Tax Administrator's office identifying the disabled Tribal member or their legal guardian, the designated caregiver, the date the designation was made, the date the Limited Power of Attorney expires, non-compliance disqualifications, the date of disqualification, the eligibility date for reinstatement to the caregiver program, or the date of indefinite disqualification. A copy of this database will be provided to the EDC Accounting Department for auditing purposes.

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CHAPTER 5
General Welfare Ordinance

§ 501. Short Title. [History: Enacted by Tribal Council on July 15, 2020.]

This ordinance shall be known and cited as the "Grand Traverse Band General Welfare Ordinance."

§ 502. Authority. [History: Enacted by Tribal Council on July 15, 2020.]

This ordinance is enacted by the Tribal Council pursuant to the powers vested to it under Article IV, Section 1 of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians, adopted February 24, 1988, and approved by the Secretary of the Interior on March 29, 1988, as may be amended from time to time. Pursuant to Section 16 of the Indian Reorganization Act (P.L. 73-383, 48 Stat. 984).

§ 503. Purpose. [History: Enacted by Tribal Council on July 15, 2020.]

The purpose of this chapter is to establish a means of providing assistance to Tribal members that promotes the general welfare of the Tribe and is excludable from the gross income of those recipients. The Internal Revenue Service in IRS Revenue Procedure 2014-35 provides for safe harbor programs under which, if approved and in writing, would presume need and thus exclude these benefits. Accordingly, this chapter sets forth a framework to establish programs consistent with IRS Revenue Procedure 2014-35 to ensure compliance with Internal Revenue Code § 139E and the General Welfare Doctrine that allows for the exclusion of these types of benefits from the gross income of its recipients. The benefits authorized by this chapter are intended to qualify for favorable tax treatment under the General Welfare Doctrine and IRC Code § 139E to the fullest extent permitted by law. Accordingly, all assistance provided under this chapter:

(a) Shall be available to any recipients who qualify in accordance with program policies, subject to budgetary restraints;

(b) Shall be provided in a way that does not discriminate in favor of members of the Tribal Council;

(c) Shall not be provided as compensation for goods and/or services;

(d) Shall not be lavish or extravagant under the facts and circumstances;

(e) Shall be an unfunded arrangement for tax purposes and shall be limited to funds appropriated, at the discretion of the Tribal Council. All amounts budgeted by the Tribe for assistance purposes shall remain general assets of the Tribe until such payments are disbursed;

(f) Shall not be subject to information reporting by the Tribe to the Internal Revenue Service;

(g) Without limitation, assistance provided under this chapter shall therefore be treated as nontaxable hereunder:

    (1) assistance that, when provided, satisfies the requirements for the exemption under Internal Revenue Code § 139E;

    (2) assistance that is provided under an IRS safe harbor program;

    (3) assistance that, when provided, qualifies for exclusion under the IRS General Test or General Welfare Exclusion; or

    (4) assistance that, when provided, meets another express exemption under the Internal Revenue Code, such as the exemption provided for Tribal medical expenses under Internal Revenue Code

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§ 139D, or that meets other recognized exemptions.

§ 504. Ratification of Prior Acts. [History: Enacted by Tribal Council on July 15, 2020.]

(a) This chapter is not to be construed as creating new general welfare assistance rights. Rather, this chapter is intended to codify existing procedures used by the Tribe to administer its general welfare assistance.

(b) Assistance of the nature addressed in this chapter provided prior to the enactment of this ordinance is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Tribe of its inherent Tribal sovereignty.

§ 505. Sovereign Immunity Preserved. [History: Enacted by Tribal Council on July 15, 2020.]

Nothing in this chapter shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe except as otherwise set forth herein.

§ 506. Definitions. [History: Enacted by Tribal Council on July 15, 2020.]

(a) "Approved Program" means any program or action to provide general welfare assistance that is intended to qualify for treatment under the general welfare exclusion, which is adopted as a policy by the Tribal Council.

(b) "Benefits" means any assistance provided through an approved program, including payments, which is provided pursuant to this chapter.

(c) "General Test" means any assistance that is:

(1) Paid by or on behalf of the Tribe in accordance with an approved program;

(2) Based on either needs of the Indian community itself or upon individual needs of the recipient (which need not be financial in nature);

(3) Not compensation for services; and

(4) Not per capita payments.

(d) "General Welfare Exclusion" means any benefit shall be treated as nontaxable under federal law so long as it satisfies the requirements for exclusion under Internal Revenue Code § 139E, it is provided under a safe harbor program, or it meets the General Test.

(e) "Lavish" or "Extravagant" shall have the meaning determined by the Tribal Council in its sole discretion based on all facts and circumstances, taking into account, needs unique to the Tribe as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under Internal Revenue Code § 139E following consultation between the Tribe and the Internal Revenue Service.

(f) "Recipient" means any Tribal member entitled to receive assistance in accordance with specific approved program requirements.

(g) "Tribal member" means any person who is a duly enrolled member of the Grand Traverse Band of Ottawa and Chippewa Indians.

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§ 507. Nonresource Designation. [History: Enacted by Tribal Council on July 15, 2020.]

The Tribe does not guarantee benefits under this chapter. Benefits shall not be treated as a resource or asset of a recipient for any purpose, and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. The Tribe reserves the right to cancel, adjust, modify or revoke any benefit treated as a resource of the recipient. Approved programs shall be administered at all times to avoid triggering of the doctrines of "constructive receipt" and/or "economic benefit" to the extent such doctrines are inconsistent with the purposes of this ordinance.

§ 508. Rights and Liabilities. [History: Enacted by Tribal Council on July 15, 2020.]

(a) All the rights and liabilities associated with the enactment of the ordinance codified in this chapter, or the benefits made hereunder, shall be construed and enforced according to the laws of the Grand Traverse Band of Ottawa and Chippewa Indians and applicable federal law.

(b) Nothing in this chapter or the related policies or procedures adopted for its implementation, if any, shall be construed to make applicable to the Tribe any laws or regulations which are otherwise inapplicable to the Tribe.

(c) The Tribe reserves the right to provide benefits in circumstances where federal funding is insufficient to operate federal programs designed to benefit recipients and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations.

(d) The Tribe's adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Tribe's right to seek funding shortfalls or to enforce the trust rights of the Tribe and its members.

§ 509. Program Approval. [History: Enacted by Tribal Council on July 15, 2020.]

(a) The Tribal Council shall approve programs consistent with the purposes set forth in this chapter. Each approved program shall be consistent with the General Welfare Doctrine as to purpose, eligibility, and funding. In the absence of specific requirements to the contrary, all approved programs shall be deemed to incorporate eligibility criteria that comply with Internal Revenue Code § 139E.

(b) At a minimum, program policies submitted for review and approval shall:

(1) Not discriminate in favor of the members of the Tribal Council;

(2) Ensure benefits are available to any Tribal member who meets such policy requirements;

(3) Provide that the benefits provided are for the promotion of the general welfare;

(4) Determine that the benefits are not lavish or extravagant; and

(5) Confirm that the provision of benefits is not compensation for services.

§ 510. Program Eligibility.

(a) Eligibility for benefits shall be limited to Tribal members. Approved programs may limit benefits to an identified group of Tribal members.

(b) Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Tribal Council for approval in accordance with this chapter.

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(c) Only those programs that are adopted by the Tribal Council shall be considered to be in force and effect.

§ 511. Means Testing not Required. [History: Enacted by Tribal Council on July 15, 2020.]

Consistent with Internal Revenue Code § 139E and the IRS safe harbor guidance, approved programs may be based on nonfinancial need under the General Test that are not individually means tested. Nonetheless, programs providing benefits where eligibility is financial-need based may also be approved.

§ 512. Transferability. [History: Enacted by Tribal Council on July 15, 2020.]

A recipient's eligibility for a benefit is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the recipient.

§ 513. Ceremonial and Culturally Related Gifts and Honorariums. [History: Enacted by Tribal Council on July 15, 2020.]

For safe harbor programs, and subject to amendments to Revenue Procedure 2014-35 hereafter, the Tribe will presume that individual need is met for religious or spiritual leaders (including but not limited to traditional healers) receiving the following benefits, and that the benefits do not represent compensation for services:

(a) Benefits provided under an Indian Tribal governmental program that are items of cultural significance that are not lavish or extravagant under the facts and circumstances, as determined by the Tribal Council; or

(b) Nominal cash honoraria provided to religious or spiritual officials or leaders (including, but not limited to, traditional healers) to recognize their participation in cultural, religious, and social events (including, but not limited to, rite of passage ceremonies, funerals, wakes, burials, other bereavement events, and subsequent honoring events).

§ 514. Safe Harbor Programs. [History: Enacted by Tribal Council on July 15, 2020.]

(a) Programs that meet the following general criteria for safe harbor treatment, and provide qualifying safe harbor benefits, shall be treated as nontaxable benefits under the General Welfare Exclusion without the recipient having to demonstrate individual need:

(1) The benefit is provided under a specific approved program of the Tribe;

(2) The program has written policies specifying how individuals may qualify for the benefit;

(3) The benefit is available to any Tribal member or identified group of Tribal members who satisfy the program policies, subject to budgetary restraints;

(4) The distribution of benefits from the program does not discriminate in favor of the governing body of the Tribe;

(5) The benefit is not compensation for goods or services; and

(6) The benefit is not lavish or extravagant under the facts and circumstances, as determined by the Tribal Council.

(b) The following benefits may be provided under a safe harbor program. The benefits listed in the

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parenthetical language herein are illustrative only, rather than an exhaustive list. Thus, a benefit may qualify for exclusion from gross income as a safe harbor program even though the benefit is not expressly described in the parenthetical language herein; provided, that it meets all other requirements of the Internal Revenue Service Code, and Revenue Procedure 2014-35 (as may be amended):

(1) Housing Programs. Programs relating to principal residences and ancillary structures that are not used in any trade or business, or for investment purposes, that:

(A) Pay mortgage payments, down payments, or rent payments (including but not limited to security deposits) for principal residences;

(B) Enhance habitability of housing, such as by remedying water, sewage, or sanitation service, safety issues (including, but not limited to, mold remediation), or heating or cooling issues;

(C) Provide basic housing repairs or rehabilitation (including, but not limited to, roof repair and replacement);

(D) Pay utility bills and charges (including, but not limited to, water, electricity, gas, and basic communications services such as phone, internet, and cable); or

(E) Pay property taxes or make payments in lieu of taxes (PILOTs).

(2) Educational Programs. Programs to:

(A) Provide students (including, but not limited to, post-secondary students) transportation to and from school, tutors, and supplies (including, but not limited to, clothing, backpacks, laptop computers, musical instruments, and sports equipment) for use in school activities and extracurricular activities;

(B) Provide tuition payments for students (including, but not limited to, allowances for room and board on or off campus for the student, spouse, domestic partner, and dependents) to attend preschool, school, college or university, online school, educational seminars, vocational education, technical education, adult education, continuing education, or alternative education;

(C) Provide for the care of children away from their homes to help their parents or other relatives responsible for their care to be gainfully employed or to pursue education; and

(D) Provide job counseling and programs for which the primary objective is job placement or training, including, but not limited to, allowances for expenses for interviewing or training away from home (including, but not limited to, travel, auto expenses, lodging, and food); tutoring; and appropriate clothing for a job interview or training (including, but not limited to, an interview suit or a uniform required during a period of training).

(3) Elder and Disabled Programs. Programs for individuals who have reached age 60 or are mentally or physically disabled (as defined under applicable law, including, but not limited to, Tribal laws) that provide:

(A) Meals through home-delivered meal programs or at a community center or similar facility;

(B) Home care such as assistance with preparing meals or doing chores, or day care outside the home;

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(C) Local transportation assistance; and

(D) Improvements to adapt housing to special needs (including but not limited to grab bars and ramps).

(4) Cultural and Religious Programs. Programs to:

(A) Pay expenses (including, but not limited to, admission fees, transportation, food, and lodging) to attend or participate in an Indian tribe's cultural, social, religious, or community activities such as ceremonies and traditional dances;

(B) Pay expenses (including, but not limited to, admission fees, transportation, food, and lodging) to visit sites that are culturally or historically significant for the Tribe, including, but not limited to, those on other Indian reservations;

(C) Pay the costs of receiving instruction about an Indian tribe's culture, history, and traditions (including, but not limited to, traditional language, music, and dances);

(D) Pay funeral and burial expenses and expenses of hosting or attending wakes, funerals, burials, other bereavement events, and subsequent honoring events; and

(E) Pay transportation costs and admission fees to attend educational, social, or cultural programs offered or supported by the Tribe or another tribe.

(5) Other Qualifying Benefit Programs. Programs to:

(A) Pay transportation costs such as rental cars, substantiated mileage, and fares for bus, taxi, and public transportation between an Indian reservation, service area, or service unit area and facilities that provide essential services to the public (such as medical facilities and grocery stores);

(B) Pay for the cost of transportation, temporary meals, and lodging of a Tribal member while the individual is receiving medical care away from home;

(C) Provide assistance to individuals in exigent circumstances (including, but not limited to, victims of abuse), including, but not limited to, the costs of food, clothing, shelter, transportation, auto repair bills, and similar expenses;

(D) Pay costs for temporary relocation and shelter for individuals displaced from their homes (including, but not limited to, situations in which a home is destroyed by a fire or natural disaster);

(E) Provide assistance for transportation emergencies (for example, when stranded away from home) in the form of transportation costs, a hotel room, and meals; and

(F) Pay the cost of nonprescription drugs (including but not limited to traditional medicines).

§ 515. Non-Safe Harbor Programs. [History: Enacted by Tribal Council on July 15, 2020.]

Nothing in this chapter or the IRS safe harbor guidance shall limit the Tribe's right to provide benefits outside of the safe harbor rules. Any changes to the safe harbor programs as a result of the Indian General Welfare Exclusion Act of 2014 shall be immediately incorporated, by reference, into this chapter.

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GRAND TRAVERSE BAND CODE

Title 5

TRIBAL GOVERNMENT OFFICERS & EMPLOYEES

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CHAPTER 1
Financial Disclosure

Legislative Background: The preamble to the Financial Disclosure Ordinance reads as follows:

> "The purpose of this ordinance is to define the terms of Article XII, Section 3 of the Tribal Constitution in order to provide guidance to the Tribal Chairperson and any other salaried Tribal Council members regarding the financial disclosure requirement of the Constitution. For purposes of this ordinance, "salaried Tribal Council members" includes any Tribal Council member who receives a salary from any subdivision or commission of the Tribe."

§ 101. Compliance with Financial Disclosure Requirements. [History: Financial Disclosure Ordinance, enacted by Tribal Council on April 19, 1996.]

Upon each occasion that an individual is elected/appointed to the Tribal Council, the Chairperson and any other salaried Tribal Council members shall comply with the financial disclosure requirements of the Constitution and this ordinance.

§ 102. Disclosure before Tribal Council. [History: Financial Disclosure Ordinance, enacted by Tribal Council on April 19, 1996.]

The financial disclosure shall be made in closed session to the Tribal Council within 90 days of being elected/appointed.

§ 103. Written Statement; Filing. [History: Financial Disclosure Ordinance, enacted by Tribal Council on April 19, 1996.]

The financial disclosure shall be a written statement, and after disclosure to the Tribal Council such financial disclosure statement shall be filed with the Tribal Court in a closed file not available for public inspection.

§ 104. Contents of Financial Disclosure Statements. [History: Financial Disclosure Ordinance, enacted by Tribal Council on April 19, 1996.]

(a) The names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational institutions in which the employee, spouse, dependent child or other relatives who are full-time residents of the employee's immediate household have:

  (1) A continuing financial interest through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional associations; or

  (2) Any financial interest through the ownership of stock, stock options, bonds, securities or other arrangements including trusts;

(b) Interests in real property or rights in lands in which the employee, spouse, dependent child or other relatives who are full-time residents of the employee's immediate household have an interest, other than property which the employee occupies as a personal residence;

(c) The names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions with which the employee is connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant;

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(d) The names of the employee's creditors, other than those to whom the employee is indebted by reason of a mortgage on property which is occupied as his or her personal residence or to whom he or she is indebted for current and ordinary household and living expenses; and

(e) Retirement benefits, vested rights to retirement benefits, or investments in self-employment or individual retirement plans.

§ 105. Interests Exempt from Disclosure Requirement. [History: Financial Disclosure Ordinance, enacted by Tribal Council on April 19, 1996.]

(a) Individuals submitting a financial disclosure statement shall not be required to report any connection with, or interest in:

(1) A professional society;

(2) A charitable, religious, social, fraternal, recreational, public service, civil, or political organization or a similar organization not conducted as a business enterprise;

(3) Holdings in widely held mutual funds, investment clubs or regulated investment companies not specializing in a particular industry; or

(4) Savings or deposits in banks, credit unions, building and loan associations, or insurance companies.

(b) For the purpose of this section, educational and other institutions doing research work involving grants of money from or contracts with the Government are deemed "business enterprise" and are required to be included in an employee's statement of employment and financial interests.

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CHAPTER 2
Recall of Elected Officials

§ 201. Officers Subject to Recall; Petition, Circulation, Time. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

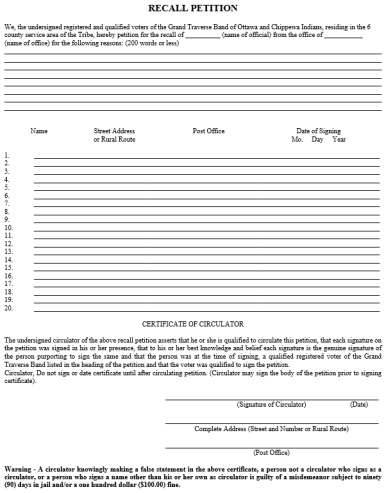
(a) Every elected official of the Tribe is subject to recall by the voters of the Tribe.

(b) A petition shall not be filed against an official until the official has actually performed the duties of the office to which elected for a period of one year during the current term of that office.

(c) An official sought to be recalled shall continue to perform duties of the office until the result of the recall election is certified.

§ 202. Recall Petitions; Form; Procedure for Determining Clarity. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The size of the recall petition shall be 8 1/2 inches by 13 inches. On a recall petition, the words "recall petition" shall be in twenty-four-point boldface type; "we, the undersigned," et cetera shall be printed in eight-point type; "warning" and language in the warning shall be in twelve-point boldface type; and the balance of the petition shall be in eight-point type. The name of the official and his/her office whose recall is being sought shall be in type not larger than twenty-four-point. The petition shall be in the following form:



RECALL PETITION

We, the undersigned registered and qualified voters of the Grand Traverse Band of Ottawa and Chippewa Indians, residing in the 6 county service area of the Tribe, hereby petition for the recall of _____ (name of official) from the office of _____ (name of office) for the following reasons: (200 words or less)

_____

_____

_____

_____

_____

_____

_____

	Name	Street Address or Rural Route	Post Office	Date of Signing Mo. Day Year
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
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18.				
19.				
20.				

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above recall petition asserts that he or she is qualified to circulate this petition, that each signature on the petition was signed in his or her presence, that to his or her best knowledge and belief each signature is the genuine signature of the person purporting to sign the same and that the person was at the time of signing, a qualified registered voter of the Grand Traverse Band listed in the heading of the petition and that the voter was qualified to sign the petition.
Circulator, Do not sign or date certificate until after circulating petition. (Circulator may sign the body of the petition prior to signing certificate).

_____
(Signature of Circulator) (Date)

_____
Complete Address (Street and Number or Rural Route)

_____
(Post Office)

Warning - A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor subject to ninety (90) days in jail and/or a one hundred dollar ($100.00) fine.

(1) The circulator of a petition shall be a qualified and registered voter of the Grand Traverse Band.

(2) The circulator of the petition shall sign and date the certificate of circulator only after all voters' signatures appearing on the petition on the date of filing have been obtained. Signatures which were obtained after the date the circulator signs the certificate or are contained in a petition which the circulator does not sign and date shall not count. A circulator may sign the main body of the petition prior to certifying the petition circulator may sign the main body of the petition prior to certifying the petition.

(3) The invalidity of one or more signatures on a petition shall not affect the validity of the

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remainder of the signatures on the petition.

(4) A person shall not sign more than one recall petition per official whose recall is sought.

(5) A person who signs a petition with a name other than his or her own is guilty of a misdemeanor subject to a $100 fine and/or 90 days in jail.

(6) A person who knowingly makes a false statement in a certificate on a petition, a person not a circulator who signs as a circulator, or a person who signs a name as circulator other than his or her own is guilty of a misdemeanor, subject to a $100 fine and/or 90 days in jail.

(7) A person who aids or abets another in an act which is prohibited by this section is guilty of a misdemeanor subject to a fine of $100 and/or 90 days in jail.

(b) Before being circulated, a petition for recall of an official shall be submitted to the election board.

(c) The election board, not less than 10 days after submission to it of a petition for recall, shall meet and shall determine whether the reasons for recall stated in the petition are or are not of sufficient clarity to enable the course of conduct which is the basis for the recall. Failure of the election board to comply with this subsection shall constitute a determination that the reasons for recall stated in the petitions are of sufficient clarity to enable the official whose recall is being sought and the voters to identify the course of conduct which is the basis for the recall.

(d) The election board shall notify, not later than 24 hours after receipt of a petition for recall, the official whose recall is being sought of the reasons stated in the petition for recall, and of the date of the meeting of the election board to consider these reasons.

(e) Upon notification of the reason or reasons for recall by the election board, the official whose recall is sought and the sponsors of the petition may appear at the meeting and present arguments on the clarity of the reason or reasons.

(f) If reasons for recall are determined to be unclear and the sponsors and the official and the election board are not able to formulate a clear reason, the process shall be terminated.

(g) If the reasons of the recall are determined to be clear following a meeting of the election board, the sponsors of the recall shall have 60 days to file the recall petitions with the Tribal enrollment clerk.

(h) The Tribal enrollment clerk shall be the filing official for the election board on recall matters. Notice to the clerk shall be deemed to be notice to the election board. The clerk shall stamp each filing with the date and time of filing and furnish the person filing with a receipt.

§ 203. Blank Forms; Substantial Compliance. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The election board shall retain blank forms of recall petitions for use by the voters of the Band.

(b) A person may print his own recall petitions if those petitions comply substantially with the form prescribed above.

§ 204. Number of Signatures; Certification. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The petitions shall be signed by registered and qualified voters equal to not less than 25% of the number of votes cast for candidates for the Tribal Council at the last preceding general Tribal election.

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(b) Upon written demand, the election board, within five days, shall certify the minimum number of signatures required for the recall of an official.

§ 205. Qualifications of Circulator; Certificate, Contents, False Statement, Misdemeanor. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) A person circulating a petition shall be a qualified and registered voter and shall attach thereto his or her certificate stating that he or she is a qualified Tribal voter and shall state the city or the county wherein he or she resides and his or her post office address; further, that signatures appearing upon the petition were not obtained through fraud, deceit, or misrepresentation and that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; that all signatures to the petition were affixed in his or her presence; and to his or her knowledge, information, and belief, the signers of the petition are qualified and registered voters and the signatures appearing thereon are the genuine signatures of the persons whom they purport to be.

(b) A person who knowingly makes a false statement in the certificate here required is guilty of a misdemeanor punishable by a fine of $100 and/or 90 days in jail.

§ 206. Recall Petition Sheet; Validity of Signatures. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) A petition sheet shall contain only the signatures of qualified and registered Tribal voters.

(b) A qualified and registered Tribal voter may sign the petition sheet in any location at which the petition sheet is available.

(c) A petition is not invalid if it contains the signature of a person who is not a qualified and registered Tribal voter.

§ 207. Filing of Circulated Recall Petitions [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) A circulated recall petition shall be filed with the clerk of the election board.

(b) The clerk shall give a receipt showing the date of filing, the number of petition sheets filed and the number of signatures claimed by the filer.

(c) This shall constitute the total filing and additional petition sheets for this filing shall not be accepted.

§ 208. Sufficiency of Recall Petitions; Determination; Proposed Date for Special Elections. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The election board shall receive and verify the petitions and its signatures within 10 business days of receipt of the petition by the board.

(b) A recall election shall be held within 30 days of the board's verification of the sufficiency of the recall petitions.

§ 209. Notification to Officeholder; Challenge to Validity of Signatures. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

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(a) Not later than the business day following the filing of a recall petition with the election board, the board shall notify in writing the official whose recall is sought, that the recall petition(s) has been filed. Copies of the petitions shall be made available to the official who is the subject of the petition and to Tribal members.

(b) An official whose recall is sought may challenge the validity of a signature or the registration of a voter whose name appears upon a recall petition. A challenge shall be in writing, specifying the challenged signature, and shall be delivered to the election board within five days after the filing of the petitions.

(c) A challenged signature shall be compared with the signature on the original registration record.

(d) Disputes over the validity of signatures and sufficiency of the petitions shall be decided by the election board whose decision shall be final and conclusive.

§ 210. Ballot Contents; Condensed Statement; Question Printed on Ballot. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The reason for demanding the recall of the official as set forth in the petition shall be printed on the recall ballot used at the election in not more than 200 words.

(1) The statement of reasons set forth in the petition shall contain more than 200 words, then the statement shall be condensed by the sponsor of the petition for use on the ballot.

(2) If the sponsor fails to furnish the condensed statement within 48 hours following written demand, then the statement shall be condensed by the election board.

(b) The election board, in preparing the ballot, shall provide in writing to the official whose recall is sought the statement of reason which shall appear on the ballot.

(1) The official whose recall is sought, in not more than 200 words, may submit a justification of conduct in office.

(2) The justification shall be submitted to the election board within 72 hours after receipt of the notification.

(3) If submitted in the prescribed time, the justification shall be printed on the ballot.

(c) The statement "Vote no on the recall" or "Vote yes on the recall" or words of similar import shall not be permitted on the ballot. A part of the reason for demanding the recall of the official or the official's justification of conduct in office shall not be emphasized by italics, underscoring, or in any other manner.

(d) There shall be printed on the recall ballot the following question: Shall (Name the person against whom the recall petition is filed) be recalled from the office of (title of the office)?

(1) Printed below the question in separate lines in easily legible type shall be the words "Yes _____" and "No _____".

(2) The procedure governing the election on the question of the recall of an official shall be the same, so far as possible and unless otherwise provided in this act, as that by which the official is elected to office.

(3) The election board shall give public notice, cause the ballots to be printed, provide election

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supplies and do all things necessary to conduct the election in the manner provided in this act.

§ 211. Canvass of Recall Election; Certification of Results; Notice. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) The election board shall conduct the canvass of the recall election.

(b) If the election board determines that a majority of the votes are in favor of recall, the board shall immediately certify the results.

(c) Upon certification, the office is vacant.

(d) The election board shall immediately inform the official who was recalled of the results and date and time of certification.

§ 212. Further Recall Petition, Filing. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

After filing such recall petition and after such special election, no further recall petition shall be filed against the same incumbent of such office during the term for which he or she is elected unless such further petitioners shall first pay into the Tribal treasury the whole amount of election expenses for the preceding special election held for the recall of said incumbent.

§ 213. Recall of Official, Vacancy. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) Upon the filing of the certificate of the election board showing the recall of the official as herein provided, the office of any recalled Tribal Council member shall automatically be deemed to be vacant.

(b) A vacancy in the office of Tribal Chairperson shall be filled by a special election for the balance of the unexpired term.

(c) Any other vacancies in the Tribal Council shall be filled until the next regularly-scheduled election of Tribal Council members in the following manner:

(1) The first three vacancies occurring between regularly-scheduled elections of Tribal Council members shall be filled by Tribal Council appointment.

(2) Further vacancies occurring between regularly-scheduled elections of Tribal Council members shall be filled by a special election only; and

(3) The filling of vacancies and the terms of service of those who fill vacancies shall maintain the integrity of the staggered election process mandated by the GTB Tribal Constitution.

(d) Any Tribal Council member who is serving office by appointment shall only serve until the next regularly-scheduled election for Tribal Council members.

(e) Any Tribal Council member taking office under this provision shall be deemed to be subject to all provisions of the GTB Tribal Constitution and to Tribal ordinances and resolutions generally applicable to elected officials and to their particular office.

(f) Any special election required to be held under the Recall Ordinance shall be conducted in accordance

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with applicable provisions of the GTB Constitution and with any applicable Tribal ordinance. If a regular election is scheduled to be held within the time permitted to hold a special election, all issues shall be submitted to a vote at the regular election.

§ 214. Special Election to Fill Vacancy; Time. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

If the recall was successful, the election board shall within five days of certification schedule a special election.

§ 215. Officials who have been Recalled or have Resigned, Candidacy or Appointment. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

(a) An official who was recalled shall not be a candidate to fill the vacancy created by the recall nor be appointed to fill a vacancy during the term of office from which the official was recalled.

(b) An official who has resigned subsequent to the filing of a recall petition shall not be appointed to fill a vacancy in elected office during the term of the office from which the official resigned.

(c) If an official resigns subsequent to the filing of petitions to recall that official from office, it shall not be necessary for the election board to proceed further.

(d) If an official whose recall is sought resigns after the calling of a recall election, the election shall not be held.

§ 216. Candidate Deemed Elected. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

The candidate receiving the highest number of votes for the vacancy created on such recall should be considered duly elected for the remainder of the term.

§ 217. Effective Date of Act. [History: Recall of Elected Officials Ordinance, adopted by motion by Tribal Council on April 21, 1992.]

This act shall become effective April 21, 1992.

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CHAPTER 3

Compensation for Tribal Chairman and Tribal Council Members

§ 301. Stipend Authorization. [History: Tribal Act #86-423; enacted by Tribal Council on May 21, 1986.]

(a) In consideration of expenses incurred as an incident of Tribal Government service and representation of the Grand Traverse Band of Ottawa and Chippewa Indians constituency, the Tribe adopts a schedule of payments of $50 per meeting or meeting day, per Councilor.

(b) In the event that sessions of more than one occur on the same meeting day, the $50 will be considered full payment for the day, except in the event where there is more than a four hour interval between the two or more meetings.

§ 302. Insurance for Tribal Chairpersons. [History: Tribal Act #95-13.287, enacted by Tribal Council on October 24, 1995.]

(a) Upon leaving office, Tribal Chairpersons shall be provided, at no cost, two years of medical and hospitalization insurance coverage for every four years served as chairperson.

(b) When the Tribal contribution is completed, said chairperson may purchase medical and hospitalization insurance through the Tribe at the former chairperson's own expense.

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CHAPTER 4

(Reserved)

[History: Former Chapter 4, Minimum and Maximum Wages for Tribal Employees, adopted by Tribal Act #90-823, enacted by Tribal Council on March 31, 1990, was REPEALED by Tribal Act #97-15.511, enacted by Tribal Council on November 10, 1997.]

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CHAPTER 5
Criminal Background Investigations

§ 501. Criminal Background Investigations of Tribal Employees. [History: Tribal Act #96-14.328, enacted by Tribal Council on February 20, 1996; as amended by Tribal Act #02-20.1115, enacted by Tribal Council on May 29, 2002.]

(a) For the health, safety and welfare of the Tribal community, all employees, volunteers, prospective employees and prospective volunteers of the Grand Traverse Band shall be subject to a criminal background investigation completed by the Grand Traverse Band Police Department. The background investigation shall include a history check of criminal convictions by use of the Law Enforcement Information Network (L.E.I.N.).

(b) All information needed to complete the investigation will be provided to the Tribal Police and will be maintained and secured in their office for the requisite period of time required by L.E.I.N. for access.

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CHAPTER 6
GTB Code of Ethics

§ 601. Statement of Purpose and Findings. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) The purpose of this Code is to define the terms and implement procedures for Article XII, Conflict of Interest, of the GTB Tribal Constitution.

(b) The purpose of this Code is to recognize that Article III, Section 4, "Records of the Band," of the Tribal Constitution applies to procedures implemented under Article XII of the Tribal Constitution. All filings under these procedures are Tribal public documents and are subject to review by Tribal members consistent with the terms of Article III, Section 4, of the Tribal Constitution.

(c) Article XII, Section 1, of the Tribal Constitution directs that Tribal officials shall not have a personal financial interest in the decision-making process and requires the establishment of standards of conduct to avoid conflicts of interest or the appearance of impropriety.

(d) Article XII, Section 2, of the Tribal Constitution prohibits employment in programs directly or indirectly controlled by the Tribe unless such employment is in a for-profit entity.

(e) Article XII, Section 3, of the Tribal Constitution directs that financial disclosure statements of salaried Tribal officials shall be "similar to those required of certain officials of the federal government."

(f) The "Ethics in Government Act of 1978," P.L. 95-521 and the amendments thereunder, and the "Executive Personnel Financial Disclosure Requirements," P.L. 95-521 are the statutory models from which this Code is enacted. This Code shall be interpreted in light of those public laws; however, those public laws are not controlling.

(g) The Tribal Council finds that all Tribal employment is public employment subject to the terms of Article III, Section 4, of the Tribal Constitution and that financial disclosure by employees of the Grand Traverse Band, in whatever capacity, is consistent with the Tribal Constitution and federal law.

§ 602. Definitions. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) For purposes of this Code, the term:

(1) "Business" includes any enterprise, organization, trade, occupation or profession whether or not operated as a legal entity for profit, including any business, trust, holding company, corporation, partnership, joint venture, or sole proprietorship, consultant or other self-employed enterprise.

(2) "Business with which a person is associated" includes any business in which the person or a member of the person's immediate family is a director, officer, partner, trustee or employee, holds any position of management or receives income in any form such as wages, commission, direct or indirect investment worth more than $1,000 holds any ownership, security or other beneficial interest, individually or combined, amounting to more than 10% of said business.

(3) "Conflict of interest" means the reasonable foreseeability that any personal or economic interest of a public official or employee will be affected in any materially different manner from the interest of the general public, by any decision, enactment, agreement, award or other official action or function of any governmental body or political subdivision of the Grand Traverse

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Band.

(4) "Dependent business" means any business, as defined herein, in which the person or members of the persons immediate family, individually or combined, have any direct or indirect ownership, investment, security or other beneficial interest amounting to more than 5% of such business.

(5) "Dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who:

(A) Is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) Is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954 [26 U.S.C. § 152].

(6) ECONOMIC INTEREST — means an interest held by the person, members of the person's immediate family or a dependent business, which is:

(A) Any ownership, income, investment, security or other beneficial interest in a business, or

(B) Any employment or prospective employment for which negotiations have already begun.

(7) EMPLOYEE — means any person or entity working for, or rendering or exchanging any services or performing any act for or on behalf of another person, organization or entity in return for any form of pay or other compensation or thing of value received or to be received any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.

(8) GIFT — means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include:

(A) Bequest and other forms of inheritance,

(B) Suitable mementos of a function honoring the reporting individual,

(C) Food, lodging, transportation, and entertainment provided by a tribal government,

(D) Food and beverages consumed at banquets, receptions, or similar events, or

(E) Communications to the offices of a reporting individual including subscriptions to newspapers and periodicals.

(b) GOVERNMENT BODY — means any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency and any establishment of the executive, administrative and legislative function of the Grand Traverse Band.

(c) HONORARIA — means a payment of money or anything of value made to a person for services rendered for which fees cannot legally or are not formally made.

(d) INCOME — means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance

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and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust.

(e) MANAGEMENT EMPLOYEE — means all those positions listed in § 604(b)(1).

(f) MINISTERIAL ACTION — means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or in the exercise of, the person's own judgment upon the propriety of the action being taken.

(g) OFFICIAL DISCRETIONARY ACTION — means any official function of public office or employment, including any vote, decision, opinion, allocation, recommendation, approval, disapproval, finding, delegation, authorization, contract, commitment, settlement, disbursement, release or other action which involves the exercise of discretionary authority, on behalf of or in any manner affecting any interest or property of the Grand Traverse Band, including any governmental body, political subdivision or member thereof.

(h) PERSONAL HOSPITALITY OF ANY INDIVIDUAL — means hospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or his/her family or on property or facilities owned by that individual or his/her family.

(i) PUBLIC EMPLOYEE — means any employee, as defined herein, temporarily, periodically, permanent or indefinitely in the employment of the Grand Traverse Band, and/or any governmental body thereof as defined herein, including intergovernmental personnel.

(j) PUBLIC OFFICE — means any person holding an elective or appointed office in any governmental body of the Grand Traverse Band as defined herein.

(k) REIMBURSEMENT — means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are provided by the Tribe.

(l) RELATIVE — means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual.

(m) TRIBE — means the Grand Traverse Band of Ottawa and Chippewa Indians, the GTB, and the Grand Traverse Band, and all these terms are used interchangeably.

(n) VALUE — means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

§ 603. Standards of Conduct and Restricted Activities of Tribal Councilors and Management Employees. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election); as amended by Tribal Act #10-28.2198, enacted by Tribal Council on August 18, 2010.]

(a) Conduct in Conformity with Applicable Rules and Laws. Tribal Councilors and management employees shall at all times conduct themselves so as to reflect credit upon the Tribal members and government, and comply with all applicable laws of the Grand Traverse Band with respect to their conduct in the performance of the duties of their respective office or employment.

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(b) General Prohibitions; Conflicts of Interest.

(1) No Tribal Councilor or management employee shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing their private economic gain or that of any special business interests with which they are associated, before those of the general public, whose paramount interests their office or employment is intended to serve.

(2) It is the intent of this subsection (b) that Tribal Councilors and management employees of the Grand Traverse Band avoid any action, whether or not specifically prohibited by the Standards of Conduct set out herein, which could result in, or create the appearance of:

(A) Using public office for private gain;

(B) Giving preferential treatment to any special interest organization or person;

(C) Impeding governmental efficiency or economy;

(D) Losing or compromising complete independence or impartiality of actions;

(E) Making a government decision outside official channels;

(F) Adversely affecting the confidence of the Tribal members in the integrity of the government of the Grand Traverse Band;

(G) The official makes, participates in, or uses his or her official position to influence a governmental decision;

(H) It is foreseeable that the decision will affect the official's economic interest;

(I) The effect of the decision on the official's economic interest will be material; and

(J) The effect of the decision on the official's economic interest will be distinguishable from its effect on the public generally.

(c) Use of Confidential Information for Private Gain. No Tribal Councilor or management employee shall use or disclose confidential information gained in the course of or by reason of their official position or activities, to further their own economic and personal interest or that of anyone else.

(d) Restrictions Against Incompatible Interests or Employment.

(1) Tribal Councilors and management employees shall not:

(A) Have direct or indirect financial or other economic interests nor engage in such other employment or economic activity which, as determined in accordance with the provisions of this Code and other applicable laws of the Grand Traverse Band necessarily involves inherent substantial conflict, or the appearance to have such substantial conflict, with their responsibilities and duties as Tribal Councilors or management employees of the Grand Traverse Band; nor

(B) Engage in, directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon, information obtained through their public office or employment; nor

(C) Acquire any economic or other financial property, contractual or other economic interest

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at a time when they believe or have reason to believe, that it will directly and substantially affect or be so affected by their official actions or duties.

(2) Subject to the restrictions and conditions set forth in this Code, Tribal Councilors and management employees are free to engage in lawful financial transactions to the same extent as the general public. The Grand Traverse Band may, however, adopt further approved restrictions upon such transactions or employment as authorized herein and by other applicable laws of the Grand Traverse Band, in light of special circumstances or the particular duties of the Tribal Councilor or management employee.

(3) No business or other entity shall employ a Tribal Councilor or a management employee if such employment is prohibited by or otherwise violates any provision of this Code.

(4) The term "employment," within the meaning of this subsection (d) includes professional services and other services rendered by a Tribal Councilor or a management employee, whether rendered as an employee, consultant, or other independent contractor.

(e) Conflict of Interest Statements and Official Action of a Tribal Councilor or Management Employee.

(1) When a Tribal Councilor or a management employee is required to take official action on a matter in which such Tribal Councilor or management employee has a personal economic interest, they should first consider eliminating that interest. If that is not feasible nor required under subsection (d) above, such Tribal Councilor or management employee shall:

(A) Prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict, as soon as such Tribal Councilor or management employee is aware of the responsible party for inclusion in the official record of any vote or other decision or determination.

(B) Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter; and

(C) Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise directed by the authorized residing official of the governmental body making such decision or determination, or otherwise legally required by law, (such as the vote of an elected representative delegate which is cast on behalf of his or her electorate constituents), or unless such person's vote, position, recommendation or participation is contrary to their personal economic interest.

(2) Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body, agency or commission to take such action or vote upon such matter.

(3) Management employees shall also deliver a copy of such statements to the Committee and to their immediate superior, if any, who shall assign the matter to another. If such employee has no immediate superior, he or she shall take such steps as the Committee shall prescribe or advise, to abstain from influencing actions and decisions in the matter.

(4) In the event that a Tribal Councilor's or a management employee's participation is otherwise legally required for the action or decision to be made, such person and the presiding official or immediate superior requiring such participation shall fully report the occurrence to the

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Committee.

(f) Tribal Government Contracts; Restrictions and Bid Requirements.

(1) No Tribal Councilor or management employee or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any governmental contract of the Grand Traverse Band or of any investment of funds of the Grand Traverse Band, unless the contract or the investment meets the following requirements:

(A) The contract is let by notice and competitive bid or procurement procedures as required under the applicable laws, rules, regulations and policies of the Grand Traverse Band (GTB Bidding Code), for necessary materials or services for the governmental agency or entity involved; and

(B) If the continuous course of a business commenced before the Tribal Councilor or management employee assumed their current term of office or employment; and

(C) The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the Tribal Councilor or management employee or a member of their immediate family; and

(D) The Tribal Councilor or management employee has taken no part in the determination of the specifications, deliberations or decisions of a governmental agency with respect to the public contract; and

(E) The Tribal Councilor or management employee is not a member, office holder, employee or otherwise directly associated with the Tribal governmental agency or entity primarily responsible for letting, performing, receiving, regulating or otherwise supervising the performance of the contract.

(g) Restrictions on Assisting or Representing Other Interests Before Governmental Bodies for Compensation.

(1) No Tribal Councilor or management employee, except an employee of a governmental body duly established and authorized for such purposes by the Grand Traverse Band, shall represent or otherwise assist any person or entity other than the Grand Traverse Band or governmental body or political subdivision thereof, for compensation, before any governmental body where the matter before the governmental body is of a non-ministerial nature. This Section shall not be construed to prohibit the duties of elected or appointed public officials to represent their constituents' interests before government agencies or entities not the performance of ministerial functions, including but not limited to the filing or amendment of tax returns, application for permits and licenses, and other documents or reports. It does, however, prohibit representation of such other interests for any fee or compensation in seeking to obtain any legislation, contract, payment or any claim or any other governmental benefit.

(h) Restrictions on Assisting or Representing Subsequent to Termination of Public Office or Employment.

(1) No former Tribal Councilor or management employee or other associate thereof shall, with or without compensation, after the termination of such public office or employment, knowingly act as agent for or otherwise represent any other person or entity (except the Grand Traverse Band, or its governmental bodies or political subdivisions) by formal or informal appearance not by oral or written communication, for the purpose of influencing any governmental body of the

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Grand Traverse Band or any officer or employee thereof, in connection with any proceeding, contract, claim, controversy, investigation, charge or accusation, in which such former Tribal Councilor or management employee personally and substantially participated, through approval, disapproval, recommendation, rendering of advice, investigation or otherwise, while so acting or employed.

(2) With respect to any such matter which was actually pending among such former Tribal Councilor's or management employee's responsibilities, but in which such person did not participate as set forth in paragraph (1), the prohibitions set forth hereunder shall apply for the period of two years following the termination of such public office or employment.

(3) Nothing in this Code shall prevent a former Tribal Councilor or management employee from appearing and giving testimony under oath, nor from making statements required to be made under oath, nor from making statements required to be made under penalty or perjury, nor from making appearances or communications concerning matters of a personal and individual nature which pertain to such former public official or employee or are based upon such person's own special knowledge of the particular subject involved, not otherwise privileged from disclosure by other applicable law; and provided further, that no compensation is thereby received other than that which is regularly provided for witnesses by law or regulation.

(4) The Grand Traverse Band, its governmental bodies and political subdivisions shall not enter into any contract with, nor take any action favorably affecting or economically benefiting in any manner differently from members of the public at large, any person, business, governmental or other entity, which is assisted or represented personally in the matter by a Tribal Councilor or management employee, directly contributed to the making of such contract or taking of such action by the Grand Traverse Band governmental body or political subdivision thereof.

(5) Nothing contained in this subsection shall prohibit a former Tribal Councilor or management employee from being retained or employed by the governmental entity which he or she formerly served.

(i) Unauthorized Compensation or Benefit for Official Acts.

(1) No Tribal Councilor or management employee shall accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment, beyond the amount or value which is authorized and received in their official capacity for performing such duties.

(2) This subsection (i) shall not be construed to prohibit the receipt of authorized compensation for the performance of other distinct and lawful duties by Tribal Councilors or management employees.

(3) No Tribal Councilor or management employee, however, shall accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.

(j) Unauthorized Personal Use of Property or Funds of the Grand Traverse Band. No Tribal Councilor or management employee shall use any property of the Grand Traverse Band or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property, equipment and supplies which are so entrusted, assigned or issued to them.

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(k) Staff Misuse Prohibited. No Tribal Councilor or management employee shall employ, with funds of the Grand Traverse Band, any unauthorized person(s) nor persons who do not perform duties commensurate with such compensation, and shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.

(l) Anti-Nepotism. No Tribal Councilor or management employee shall employ, elect, appoint or otherwise cause to be employed, nor nominate or otherwise influence the appointment or employment to any Tribal office or position with the Grand Traverse Band or any governmental or political subdivision thereof, any person or persons related by consanguinity or affinity within the third degree, nor any member of the same household as said public official or public employee. Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of the Personnel Policy Manual of the Grand Traverse Band, as amended from time to time.

(m) Restrictions Against Gifts or Loans to Influence Official Acts.

(1) Except as otherwise provided herein or by applicable rule or regulation adopted hereunder by the Grand Traverse Band Tribal Council, or by other applicable law, no Tribal Councilor or management employee shall solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution on generally available terms) or any other benefit of an aggregate monetary value of $100 or more in any calendar year, from any person, organization or group which:

(A) Has, or is seeking to obtain, contractual or other business or financial relationships or approval from any governmental office or entity with which the Tribal Councilor or management employee is associated or employed; or

(B) Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the Tribal Councilor or management employee is associated or employed; or

(C) Has any interest which, within two years, has been directly involved with, or affected by, the performance or non-performance of any official act or duty of such Tribal Councilor or management employee or of the government office or entity with which the Tribal Councilor or management employee is associated or employed or which the Tribal Councilor or management employee knows or has reason to believe is likely to be so involved or affected.

(n) Permitted Gifts, Awards, Loans, Reimbursements and Campaign Contributions. Subsection (m) shall not be construed to prohibit:

(1) An occasional non-pecuniary gift, insignificant in value;

(2) Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;

(3) Food and refreshments customarily made available in the ordinary course of meetings where a Tribal Councilor or management employee may properly be in attendance;

(4) An award or honor customarily and publicly presented in recognition of public service.

(o) Adoption of Supplemental Codes of Conduct for Officials and Employees of Governmental Entities of the Grand Traverse Band.

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(1) The chief executive or administrator of every governmental entity of the Grand Traverse Band which is subject to the provisions of this Code is authorized to submit for approval and adoption by the Tribal Council such supplemental rules, regulations and standards of conduct for the public officials and employees of such entity, which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this Code. Upon adoption, such supplemental standards, rules and regulations shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations and shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations provided and adopted in accordance with the provisions of this Code.

(p) No Tribal Councilor shall apply or interview for Government or Economic Development Corporation positions without first resigning from their positions as a Tribal Councilor.

§ 604. Tribal Councilors and Management Employees Required to File Financial Disclosure Statements. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) Within 90 days of assuming the position on the Tribal Council, all Tribal Councilors shall be required to file a Public Financial Disclosure Report on the forms established under the authority of this Code. The forms shall be established in a similar manner and scope as the forms established for federal officials under the "Ethics in Government Act of 1978," 95-521, and the "Executive Personnel Financial Disclosure Requirements," 95-521.

(b) Within 30 days of assuming the position of an officer or management employee as defined in subsection (b)(1) herein, an individual shall file a report containing the information described in § 605 unless the individual has left another position described in § 604 within 30 days prior to assuming such new position. The officer or management employee shall be required to file a Public Financial Disclosure Report on forms established by this Code.

(1) The officers and management employees referred to in § 604(b) herein are:

(A) The Tribal Manager;

(B) The Director of Self-Governance;

(C) The Director of Grants and Contracts;

(D) All Division Directors;

(E) The Indian Housing Authority Director;

(F) The CEO of the Gaming Commission;

(G) The Controller of the Gaming Commission;

(H) The Regulator of the Gaming Commission;

(I) All enterprise managers under the Gaming Commission;

(J) All legal staff;

(K) Chief of Police;

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(L) Principal of Tribal School;

(M) Chief Administrator of Tribal School;

(N) Ombudsman;

(O) All employees involved in Tribal purchasing departments;

(P) Tribal Planner; and

(Q) Any other management employee as the Tribal Council deems necessary.

§ 605. Contents of Reports. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) The financial disclosure statement shall consist of the following:

(1) The names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational institutions in which the employee, spouse, dependent child or other relatives who are full-time residents of the employee's immediate household have:

(A) A continuing financial interest through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(B) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts;

(C) Interests in real property or rights in lands in which the employee, spouse, dependent child or other relatives who are full-time residents of the employee's immediate household have an interest, other than property which the employee occupies as a personal residence;

(D) The names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions with which the employee is connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant;

(E) The names of the employee's creditors, other than those to whom the employee is indebted by reason of a mortgage on property which is occupied as his or her personal residence or to whom he or she is indebted for current and ordinary household and living expenses; and

(F) Retirement benefits, vested rights to retirement benefits, or investments in self-employment or individual retirement plans.

(G) Each report filed pursuant to this Section shall include a full and complete statement with respect to the following:

(i) The source, type, and amount of value of income, and the source, date, and amount of honoraria, stipends, from any source, received during the preceding calendar year, aggregating $100 or more in value.

(ii) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount

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or value of such item of income is within:

a) Not more than $1,000;

b) Greater than $1,000 but not more than $2,500;

c) Greater than $2,500 but not more than $5,000;

d) Greater than $5,000 but not more than $15,000;

e) Greater than $15,000 but not more than $20,000;

f) Greater than $20,000 but not more than $30,000; or

g) Greater than $30,000.

(iii) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(iv) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(v) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(vi) In an unusual case, a gift need not be aggregated under Section 603(n)(1) or (2) if a publicly available request for a waiver is granted.

(vii) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(viii) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding:

a) Any mortgage secured by real property which is a personal residence of the reporting individual or his/her spouse; and

b) Any loan secured by a personal motor vehicle, household furniture or appliances, which loan does not exceed the purchase price of the item which

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secures it.

c) With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(ix) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000:

a) In real property, other than property used solely as a personal residence of the reporting individual or his/her spouse; or

b) In stocks, bonds, mutual funds, and other forms of securities.

c) Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his/her spouse, or dependent children.

(x) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any non-profit organization, any labor organization, or any educational or other institution other than the Tribal Government. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(xi) If any person paid a non-elected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his/her first report under this title, the individual shall include in the report:

a) The identity of each source of such compensation; and

b) A brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

i) The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(xii) A description of the date, parties to, and terms of any agreement or arrangement with respect to;

a) Future employment;

b) A leave of absence during the period of the reporting individual's Tribal

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Government service;

c) Continuation of payments by a former employer; and

d) Continuing participation in an employee welfare or benefit plan maintained by a former employer.

(H) Each report filed pursuant to subsections (a)(1), (2), and (3) of § 605 shall include a full and complete statement with respect to the information required by paragraph (A) of subsection (a)(1) for the year of filing and the preceding calendar year.

(I) Except as provided in the last sentence of this paragraph, each report required by subsections (a)(1), (2), and (3) of § 605 shall also contain information listed in paragraphs (i) through (v) of subsection (G) respecting the spouse or dependent child of the reporting individual as follows:

(i) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a)(1) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (G)(vii). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(ii) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment or a brief description and the value of other gifts.

(iii) In the case of any reimbursements received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(iv) In the case of items described in paragraph (G)(vii)-(ix), all information required to be reported under these paragraphs other than items:

a) Which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of,

b) Which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and

c) From which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(J) Each report referred to in subsection (a)(1)(C) of this Section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (A) and (B) of subsection (a)(1) as specified in this paragraph.

(K) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his or her marriage or the permanent separation from his or her

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spouse.

(2) Except as provided in paragraph (1)(K), each reporting individual shall report the information required to be reported pursuant to subsections (a)(1)(C) and (D) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his/her spouse, or any dependent child.

(3) A reporting individual need not report the holdings of or the source of income from any of the holdings of:

(A) Any qualified blind trust (as defined in paragraph (a)(1)(4) of this section); or

(B) A trust:

(i) Which was not created directly by such individual, his/her spouse, or any dependent child, and

(ii) The holdings or sources of income of which such individual, his/her spouse, and any dependent child have no knowledge of, but such individual shall report the category of the amount of income received by him/her, his/her spouse, or any dependent child from the trust under subsection (a)(1)(G)(ii) of this Section.

(4) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his/her spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who):

(i) Is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) Is not or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) Is not a relative of any interested party.

§ 606. Implementation and Compliance. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) Ethics Officer. There is hereby created a position entitled "GTB Ethics Officer" who shall have the following duties:

(1) Adopt, amend, and publish rules and regulations to implement all provisions of this Code. Before such rules and regulations are enacted, a thirty-day public notice and comment period shall be allowed.

(2) Prescribe and make available appropriate forms for disclosure of economic interests, for distribution to all persons required to complete and file such disclosure forms.

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(3) Prepare and publish a Disclosure Guide [proposed Disclosure Guide and Forms attached] clearly explaining the procedures for completing and filing Statements of Economic Interests by all persons required to complete, certify and file such disclosure statements with the Ethics and Rules Office.

(4) Compile and maintain current lists of all persons required to file such disclosure statement, together with required filing dates; and

(5) Maintain current lists of persons failing to file required statements as prescribed. These lists are matters of public records.

(6) Randomly audit, review, and evaluate 20% of all disclosure statements filed within the reporting year.

(7) Provide that required disclosure statements of elected public officials are available during regular office hours for public inspection at the Ethics and Rules Office.

(A) Copies may be made by the Ethics Officer. A nominal fee may be charged but only in an amount to cover the actual cost.

(B) Any alteration or fraudulent representation of original disclosure statements or copies of disclosure statements shall be a violation of this Code and a person found in violation may be subject to the penalties provided in § 607, or other applicable laws. This shall not include administrative notation or comments made by authorized administrative personnel.

(8) The Ethics Officer may initiate and/or receive review and/or investigate complaints filed with the Ethics Officer.

(9) The Ethics Officer shall conduct non-adjudicatory administrative hearings to determine violations or noncompliance with this Code. All hearings shall follow rules of procedures established and adopted by the Tribal Council. The Ethics Officer shall be charged with the responsibility of representing the Grand Traverse Band in bringing forth all complaints filed under this Code.

(10) Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action.

(A) This protection shall also be afforded to any person(s), including the Ethics Office staff, offering testimony or evidence or complying with directives of the Committee.

(B) Any violations shall be subject to penalties under this Code, as well as obstruction and contempt violations of both the civil and criminal codes of the Grand Traverse Band.

(C) Upon recommendation of the Ethics Officer the Tribal Council may dismiss any complaint which the Tribal Council determines has insufficient facts to constitute a violation of noncompliance to this Code, or if there is insufficient evidence to support the allegations.

(D) Statute of Limitations. No action shall be brought under this Code by the Ethics Officer before the Tribal Council more than four years after cause of action has accrued.

(E) The Tribal Council, in the capacity of a quasi-juridical body, shall conduct administrative adjudicatory hearings on any alleged violation or noncompliance.

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(F) The Ethics Officer shall act in the capacity of complainant on matters to be heard by the Tribal Council.

(G) The hearing body may impose or recommend any sanctions, civil damages, restitution; or other penalties provided in this Code; or refer their findings to other appropriate entities for action.

(H) The Grand Traverse Band Tribal Court shall have de novo jurisdiction to hear appeals from final decisions of the Tribal Council involving Tribal Councilors.

(I) The Grand Traverse Band Tribal Court shall have record review of all other non-adjudicatory and adjudicatory hearings conducted by either the Ethics Officer or the Tribal Council.

(J) A notice of appeal shall be filed within 10 working days of the issuance of a written decision.

(K) The hearing shall be on the record only.

(L) The standard of review shall be recognized administrative law standards.

(i) In any complaint where the accused is the Tribal Chairman, Vice-Chairman, Treasurer, Secretary or a Tribal Councilor, the Tribal Council, upon completion of the adjudicatory administrative hearing, shall deliberate in executive session and by resolution render its findings of facts, conclusions of law and recommendations for sanction. Said findings, conclusions and recommendations shall be forwarded to the Grand Traverse Band Tribal Council during its next regular or special session for final adoption of sanction.

(M) If the Tribal Council refers to the Tribal Judiciary pursuant to Article VIII, Section 2, the trial shall be de novo.

(N) In any complaint where the accused is a public employee or otherwise appointed under the supervisory authority of the Tribal Council, the finding of facts, conclusions of law and sanction, if any, by the Tribal Council shall be final for purposes of judicial review. Judicial review shall be limited to review of the record to determine whether the Tribal Council complied with recognized administrative law standards.

§ 607. Sanctions and Penalties. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) Administrative Sanctions.

(1) Upon finding that there has been violation of any provisions of this Code, the Tribal Council may impose any or all of the following penalties or sanctions:

(A) Removal, discharge or termination from public office or employment in accordance with applicable Tribal law and procedure.

(B) Suspension from public office or employment and forfeiture of all compensation and benefits accruing therefrom, for not less than 30 days nor for more than one year.

(2) Accordingly, any public employee of the Grand Traverse Band shall be subject to discipline, including suspension without pay or other benefits and dismissal as provided by other laws,

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regulations and personnel policies, or procedures applicable thereto.

(3) Issuance of a written public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provisions of applicable Grand Traverse Band Tribal laws and procedures.

(4) Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.

(5) No sanctions or penalty provided herein shall limit any other powers of the Tribal Council or Tribal Courts of the Grand Traverse Band, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations or procedures.

(b) Other Civil Damages.

(1) A person found in violation of this mandate shall be further subject to, and personally liable for, the following provisions, without regard to the imposition of any administrative sanction or criminal conviction:

(A) Any Tribal Councilor or management employee who violates any economic disclosure or reporting requirement of this Code may be held liable to the Grand Traverse Band for civil damages in any amount not to exceed the value of any interest not properly reported.

(B) Any Tribal Councilor or management employee who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in §§ 602 or 603 of this Code, shall be liable to the Grand Traverse Band for civil damages in the amount not exceeding three times the amount or value of the benefit or benefits so obtained.

(C) If two or more persons are responsible for any violation, each of them shall be liable to the Grand Traverse Band for the full amount of any civil damages prescribed herein, the full amount of which may be imposed upon and collected from each of them individually.

(D) Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the Grand Traverse Band and shall be paid into the general fund of the Tribe.

(E) No imposition of any or all civil damages provided herein shall be a bar to institution of any civil, criminal or misdemeanor action, liability, judgment, conviction or punishment otherwise applicable hereto, nor shall determination of any such civil damages be barred thereby.

§ 608. Severability and Prior Inconsistent Law Suspended. [History: GTB Ethics Code, adopted by Tribal Council in Special Session on November 14, 1997, effective as of May 28, 1998 (after tribal election).]

(a) If any provision of this Code or the application of such provisions to any person, firm, association, corporation, or circumstances shall be held invalid. The remainder of the Code and the application of such other than those as to which it is held invalid shall not be affected thereby.

(b) Upon the effective date of the GTB Code of Ethics, all prior inconsistent enactments, ordinances, rules, policies and regulations of the Tribe and subdivisions, branches, commissions, departments and offices thereof are hereby superseded and/or amended to comply with this Code.

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Authority of Grand Traverse Band, MI

CHAPTER 7
Tribal Member/Employee Medical Insurance Coverage

§ 701. Post-Employment Medical Insurance of GTB Tribal Members. [History: Tribal Member/ Employee Medical Insurance Coverage Ordinance adopted by Tribal Council at Special Session on April 26, 2000, approval by Referendum, May 24, 2000.]

A committee, consisting of the GTB Clinic Department Manager, Human Resources Department Manager, Chief Financial Officer and Tribal Manager, is hereby directed to establish a schedule of medical benefits coverage for all GTB tribal member employees who voluntarily or involuntarily leave the employment of a position covered by GTB medical insurance self-funding coverage and the GTB Indian Health Service area coverage under federal law.

(a) The Committee shall structure a post-benefit schedule of payments consistent with protecting the Indian Health Service Funds and the term of service/employment of the GTB tribal member who is a GTB ex-employee.

(b) The Committee shall structure medical insurance coverage consistent with applicable federal law governing post-employment relationships of GTB and tribal members.

(c) The Committee shall publish the benefit structure within 30 days of the approval of this referendum ordinance for the year 2000.

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Authority of Grand Traverse Band, MI

CHAPTER 8
Labor Relations Ordinance

§ 801. Labor Relations. [History: Labor Relations Ordinance adopted by Tribal Act #04-22.1466 enacted by Tribal Council on November 24, 2004.]

(a) No person shall be required, as a condition of employment on GTB lands, to:

(1) Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(2) Become or remain a member of a labor organization;

(3) Pay dues, fees, assessments or other charges of any kind or amount to a labor organization; or

(4) Pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

CROSS REFERENCE: This provision is also codified in 18 GTBC § 1701 ("Gaming" title).

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CHAPTER 9
Remote Work

§ 901. Definitions. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) Employee. The term 'employee' means a person employed on a full-time basis at a designated Department of GTB.

(b) Department. The term "Department of GTB" means an entity established by the Council to effect the delivery of services to tribal members.

(c) Remote Work. The term 'remote work' or 'remote working' refers to a work flexibility arrangement under which an employee:

(1) Performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

§ 902. Remote Work Eligibility. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) In General. Not later than 60 days after the date of enactment of this chapter, the head of each Department shall:

(1) Establish a policy under which eligible employees of the agency may be authorized to remote work; and

(2) Determine the eligibility for all employees of the Department; and

(3) Notify all employees of the Department of their eligibility to remote work.

(b) Limitation. An employee may not remote work under a policy established under this section if:

(1) The employee has been officially disciplined for being absent without permission for more than two days in any calendar year; or

(2) The employee has been officially disciplined for lack of performance under the current personnel policy in any review of the employee's work by a department manager.

(c) Participation. The policy described under subsection [§ 902(a)] shall:

(1) Ensure that remote work does not diminish employee performance or department operations; and

(2) Require a written agreement entitled "Remote Work Agreement" that:

(A) Is entered into between a department manager and an employee authorized to remote work, that outlines the specific work arrangement that is agreed to; and

(B) Is mandatory for any employee to participate in remote work.

(3) Provide that an employee may not be authorized to remote work if the performance of that employee does not comply with the terms of the written agreement between the department

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manager and that employee.

(4) Providing that in a declared emergency as determined by the Tribal Manager, and as confirmed by Council motion of concurrence of the declared emergency, this § 902(c) shall not apply to any employee of the department whose official duties are require daily (every workday) such as:

(A) Direct handling of secure materials determined to be inappropriate for remote work by the Department head; or

(B) On-site activity that cannot be handled remotely or at an alternate worksite; and

(C) Be incorporated as part of the continuity of operations plans of the Department in the event of a declared emergency.

§ 903. Training And Monitoring. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) In General. The Head of each Tribal Department, with the assistance of the Tribal Human Resources Department shall ensure that:

(1) An interactive remote work training program is provided to:

(A) Employees eligible to participate in the remote program of the department; and

(B) All managers of remote workers.

(2) Remote workers and non-remote workers are treated the same for purposes of:

(A) Periodic appraisals of job performance of employees; and

(B) Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees; and

(C) Work requirements; and

(D) Other acts involving managerial discretion as established in the current Tribal Council approved Personnel Policy.

(3) When determining what constitutes diminished employee performance, the department manager shall consult the performance management guidelines of the Council approved Personnel Policy.

§ 904. Policy And Support. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) Department Consultation With The Human Resources Office. Each Department shall consult with the Human Resources Department Office in developing remote work policies.

(b) Guidance And Consultation. The Human Resources Department Office shall:

(1) Provide policy and policy guidance for remote work in the areas of pay and leave, department closure, performance management, official worksite, recruitment, and retention, and accommodations for employees with disabilities; and

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(2) Assist each department in establishing appropriate qualitative and quantitative measures and remote work goals; and

(3) Consult with:

(A) The GTB Tribal Emergency Management personnel on policy and policy guidance for remote work in the areas of continuation of operations and long-term emergencies; and

(B) The GTB Office of Management and Budget and Grand Traverse Band Information Technology Department on policy and policy guidance for remote work in the areas of travel, technology, equipment, and dependent care.

(c) Security Guidelines.

(1) In General. The GTB Legal Department Manager in coordination with the Tribal Managers Office and Human Resources Department and the GTB Information Technology Department shall issue guidelines not later than 60 days after the date of the enactment of this chapter to ensure the adequacy of information and security protections for information and information systems used while remote working.

(2) Contents. Guidelines issued under this subsection shall, at a minimum, include requirements necessary to:

(A) Control access to department information and information systems; and

(B) Protect department information (including personally identifiable information) and information systems;

(C) Limit the introduction of vulnerabilities;

(D) Protect information systems not under the control of the department that are used for remote working;

(E) Safeguard wireless and other telecommunications capabilities that are used for remote working; and

(F) Prevent inappropriate use of official time or resources that violate Standards of Ethical Conduct for Employees of the Department.

(3) Policy Guidance On Purchasing Computer Systems. Not later than 90 days after the date of the enactment of this chapter, the Director of the Office of Management and Budget shall issue policy guidance requiring each Department when purchasing computer systems, to purchase computer systems that enable and support remote work, unless the head of the agency determines that there is a mission-specific reason not to do so.

§ 905. Remote Work Manager For Each Department. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) Designation. The Head of each Tribal Department shall be designated as the Remote Work Manager for that department. The Remote Work Manager shall have the following functions:

(b) Duties. The Remote Work Manager shall:

(1) Develop internal department procedure and implementation related to agency remote work

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standards and policies of that Department's unique requirements; and

(2) Serve as:

(A) An advisor for to the GTB Human Resources Department; and

(B) A resource for managers and employees; and

(C) A primary department point of contact for the GTB Human Resources Department on remote work matters.

(3) Perform other duties as the Tribal Council may delegate by specific motion in relation to remote work standards and duties of that specific department.

(c) Status Within Department. The Remote Work Managing Officer of a Tribal Department shall be a senior official of the Department who has direct access to the Tribal Managers Office.

§ 906. Reports. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

(a) Reports By The Office Of GTB Human Resources Department.

(1) Submission Of Reports. Not later than six months after the date of enactment of this chapter and on an annual basis thereafter, the Manager of the Human Resources Office in consultation with the Tribal Manager's office shall:

(A) Submit a report addressing the remote work programs of each Department to the Tribal Council for administrative and policy review by the Council to amend or enact further ordinance based on the report.

(2) Contents. The report submitted under this subsection shall include:

(A) The degree of participation by employees of each Department in remote work during the period covered by the report (and for each department whose head is referred to under § 905), the degree of participation of each department including:

(i) The total number of employees in the department;

(ii) The number of employees in the department who are eligible for remote work; and

(iii) The number and percent of eligible employees in the department who are remote working;

(I) Three or more days per pay period;

(II) One or two days per pay period;

(III) Once per month; and

(IV) On an occasional, episodic, or short-term basis;

(B) The method for gathering remote work data in each department;

(C) If the total number of employees remote working is 10% higher or lower than the previous month in any department and the reasons for the positive or negative variation;

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(D) The department goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees remote working in each frequency category described under § 906(2)(A)(iii);

(E) An explanation of whether the department met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing remote work opportunities for the next reporting period;

(F) An assessment of the progress each department has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to remote work, such as the impact of remote work on:

(i) Emergency readiness;

(ii) Energy use;

(iii) Recruitment and retention;

(iv) Performance;

(v) Productivity; and

(vi) Employee attitudes and opinions regarding remote work; and

(vii) The best practices in department remote work programs.

(b) Remote work program report.

(1) In General. Not later than 12 months after the date of enactment of this Chapter and on an annual basis thereafter, the Tribal Manager and Human Resources Manager shall submit a report addressing the remote work program to the Tribal Council.

(2) Contents.

(A) Report To Tribal Council On Office Of Human Resources Personnel Management Report. Not later than six months after the submission of the first report to the Tribal Council required under this section, the Tribal Manager shall review that report required and submit an additional report to the Council on the progress each department has made towards the goals established under the remote work chapter.

(B) Review and Inclusion Of Relevant Information. The Tribal Manager and Human Resources Manager of GTB shall review the reports and material submitted by department heads related to remote work for their respective departments; and

(i) Include relevant information from the submitted reports in the annual report to Council required under § 906(b)(2)(a); and

(ii) Use that relevant information for other purposes related to the strategic management of human capital; and

(iii) Prepare a set of recommendations from the Tribal Managers Office on whether to modify, amend, or end any provision of the remote work chapter.

§ 907. Authority For Remote Work Travel Expenses Test Programs. [History: Tribal Resolution #23-41.3535, enacted by Tribal Council in Special Session March 29, 2023.]

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(a) Notwithstanding any other provision of this chapter, the GTB Office and Management and Budget (GTB OMB) shall establish a review program which addresses and determines what expenses and claims may be payable through the proper disbursing official and any necessary travel expenses in lieu of any payment otherwise authorized or required under this chapter for employees participating in a remote work program. Under an approved review program, the GTB OMB may provide an employee with the option to waive any payment authorized or required under this chapter.

(b) A department head shall include in any request to the GTB OMB for approval of such a review program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

(1) Any review program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Tribal Government.

(2) Under any review program, if a department employee voluntarily relocates from the pre-existing duty station of that employee, the GTB OMB may authorize the employing department to establish a reasonable maximum number of occasional visits to the preexisting duty station before that employee is eligible for payment of any accrued travel expenses by that department.

(c) The department head who promotes a flexible duty station shall submit a year-end report which includes:

(1) The number of visits an employee makes to the preexisting duty station of that employee;

(2) The travel expenses paid by the department;

(3) The travel expenses paid by the employee; or

(4) Any other information the department manager determines useful to aid the Tribal Manager, Remote Work Managing Officer, Human Resources Department and GTB OMB and Council in understanding the department program and the impact of the program.

(d) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Tribal Government.

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GRAND TRAVERSE BAND CODE

Title 6

SOVEREIGN IMMUNITY

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CHAPTER 1
Sovereign Immunity Waiver

§ 101. Short Title. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

This ordinance shall be known as the Grand Traverse Band of Ottawa and Chippewa Indians Sovereign Immunity Waiver Ordinance.

§ 102. Definitions. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

Unless otherwise required by the context, the following words and phrases shall be defined as follows:

(a) "Grand Traverse Band of Ottawa and Chippewa Indians Gaming Enterprise" means the Grand Traverse Band Econonic Development Corporation created by the Grand Traverse Band of Ottawa and Chippewa Indians Tribal Resolution 94-12-155 including its officers, employees and directors. **[History: Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

(b) "Gaming Enterprise site" means that area of the Grand Traverse Band of Ottawa and Chippewa Indians Reservation which has been opened to the general public for purposes of gaming or which is used by employees of the Gaming Enterprise during the course of their employment provided that such area is covered by the liability insurance of the Gaming Enterprise.

(c) "Grand Traverse Band of Ottawa and Chippewa Indians" means the federally-recognized Indian tribe of that name.

(d) "Grand Traverse Band of Ottawa and Chippewa Indians Tribal Council" means the governing body of the Grand Traverse Band of Ottawa and Chippewa Indians.

(e) "Claim" means a petition for an award under this ordinance. A claim may be filed with respect to any injury as defined in this ordinance and which is expressly covered by the liability insurance of the Gaming Enterprise without regard to any deductible amount contained in the insurance policy.

(f) "Person" means any individual, firm, partnership, corporation, or association.

(g) "Dangerous Condition" means a physical aspect of a facility or the use thereof which constitutes an unreasonable risk to human health or safety, which is known to exist or which in the exercise of reasonable care should have been known to exist and which condition is proximately caused by the negligent acts or omissions of the Gaming Enterprise in constructing or maintaining such facility.

(1) For the purpose of this subsection, a dangerous condition should have been known to exist if it is established that the condition had existed for such a period of time and was of such a nature that, in the exercise of reasonable care, such condition and its dangerous character should have been discovered.

(2) A dangerous condition shall not exist solely because the design of any facility is inadequate nor due to the mere existence of wind, water, ice or temperature by itself, or by the mere existence of nature physical condition.

(3) Nothing in this section shall preclude an accumulation of water, snow or ice from being found to constitute a dangerous condition when the Gaming Enterprise fails to use existing means available to it for the removal of such accumulation and when the Gaming Enterprise had notice of such accumulation and reasonable time to act.

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(h) "Employee" means a part- or full-time employee or an agent or contractor of the Gaming Enterprise, when acting during the course and within the scope of their employment. This term includes officers and directors of the Gaming Enterprise when they are acting to fulfill their duties to the Gaming Enterprise. This does not include agents or representatives of the United States or of the State of Michigan or any of their political subdivisions.

(i) "Injury" means death, harm to a person, or damage to or loss of property which, if inflicted by a person under Michigan state law or Tribal law, would constitute a tort and which is expressly covered by the liability insurance of the Gaming Enterprise without regard to any deductible amount contained in the insurance policy.

(j) "Award" means money damages which the Tribal court determines are payable to compensate for any injury recognized under this ordinance.

(k) "Actual damages" means the ascertainable loss of money or property sustained as a result of an injury, provided that such injury is covered by the liability insurance of the Gaming Enterprise without regard to any deductible amount contained in the insurance policy.

(l) "Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court" means the judicial branch of the Tribe including, but not limited to, the Grand Traverse Band Economic Development Corporation Division and such other divisions as the Tribal Council may establish by resolution. **[History: Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

§ 103. Effective Date of Ordinance. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

This ordinance shall become effective immediately upon approval by the Tribal Council.

§ 104. Limited Waiver of Sovereign Immunity. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) The sovereign immunity of the Tribe shall continue except to the extent that it is expressly waived by this ordinance. Members of the Tribal Council remain immune from suit for actions taken during the course and within the scope of their duties as members of the Tribal Council.

(b) The Grand Traverse Band Economic Development Corporation may be sued solely in the Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court. The Tribe has not waived the immunity of the Grand Traverse Band Economic Development Corporation from suit in state or federal court. **[History: Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021; and by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021]**

(c) The sovereign immunity of the Grand Traverse Band Economic Development Corporation is waived in the following instances: **[History: Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

(1) Injuries proximately caused by the negligent acts or omissions of the Grand Traverse Band Economic Development Corporation;

(2) Injuries proximately caused by the condition of any property of the Grand Traverse Band Economic Development Corporation provided the claimant establishes that the property was in

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a dangerous condition;

(3) Injuries proximately caused by the negligent acts or omissions of Tribal security officers arising out of the performance of their duties during the course and within the scope of their employment.

§ 105. Limitation on Awards. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) No rule of law imposing absolute or strict liability shall be applied in any claim for injuries under this ordinance.

(b) No award or other judgment imposing punitive or exemplary damages shall be applied in any claim for injuries under this ordinance.

(c) No award for loss of consortium shall be applied in any claim for injuries under this ordinance.

(d) No award for pain and suffering or mental anguish shall be applied except where such award does not exceed 50% of the actual damages sustained and provided that any such award is expressly covered by the liability insurance of the Gaming Enterprise without regard to any deductible amount contained in the insurance policy.

§ 106. Volunteers. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994; amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]

Volunteers duly authorized by the Tribe or Grand Traverse Band Economic Development Corporation, in performing any of their authorized functions or duties or training for such functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities from suit as the Grand Traverse Band Economic Development Corporation.

§ 107. Employee Actions Outside the Scope of Employment. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) This ordinance does not immunize employees of the Grand Traverse Band Economic Development Corporation from individual liability for the full measure of the recovery applicable to a claimant if it is established that their conduct exceeded the scope of their employment or authority. **[Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

(b) Claims for individual liability arising out of conduct which is found to exceed the scope of employment and which arise on the Gaming Enterprise site shall be heard only in the Tribal court.

§ 108. Liability for Expenses. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994; amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]

If the Tribal court determines that the injuries claimed arose from an act or omission of an employee of the Gaming Enterprise which was willful and wanton or otherwise outside the scope of employment or authority of the Grand Traverse Band Economic Development Corporation, then the Grand Traverse Band Economic Development Corporation may request and the court may order the individual defendant named in the claim to reimburse the Gaming Enterprise for such costs and attorney fees which may have been incurred in the defense of such employee.

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§ 109. Extent of Liability. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994; amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]

(a) In any claim concerning a single occurrence, the maximum amount of any award under this ordinance, including damages, court costs, interest, and any other costs shall be:

(1) For any injury to one person, an amount which is in accordance with the terms of the liability insurance policy of the Grand Traverse Band Economic Development Corporation applicable to such claim.

(2) For any injury to two or more persons, an amount in accordance with the terms of the liability insurance policy of the Grand Traverse Band Economic Development Corporation applicable to such claim.

§ 110. Notice Requirement. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) Claims brought under this ordinance must be preceded by a written notice filed with the Tribal court by the claimant or the claimant's representative within 180 days after the claim accrues.

(b) The notice shall contain the following:

(1) The name and address of the claimant and the name and address of the claimant's attorney, if any;

(2) A concise statement of the factual basis of the claim including the date, time, place, and circumstances of the act, omission, or condition complained of;

(3) The name of any Gaming Enterprise employee involved, if known;

(4) A concise statement of the nature and the extent of the injury claimed to have been suffered;

(5) A statement of the amount of monetary damages that is being requested; and

(6) When the claim is one for death by negligent act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin of the deceased.

(c) All claims must be filed along with a proof of compliance with this subsection.

(d) The Tribal court clerk shall, within five days of the filing, refer all claims for less than $5,000 in actual damages to the Grand Traverse Band Economic Development Corporation for resolution on an informal basis. **[Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

§ 111. Limitation on Presentation of Claim. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) All claims shall be filed within 180 days of the date on which they accrued.

(b) Claims brought under this ordinance shall be deemed to accrue on the date when the injury is sustained.

§ 112. Application of State Law. [History: Tribal Act #94-12.176, enacted by Tribal Council on

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October 18, 1994.]

Any claim brought under this ordinance shall be determined by the Tribal Court in accordance with the Tribal law and the principles of law applicable to similar claims arising under the laws of the State of Michigan.

§ 113. Attachment Prohibition. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994; amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]

Neither execution nor attachment shall issue against the Grand Traverse Band Economic Development Corporation, Gaming Enterprise, or the Tribe in any claim for injury or proceedings initiated under this ordinance.

§ 114. Severability. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) If any part of this ordinance is invalidated by the Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court, all valid parts that are severable from the invalid part remain in effect.

(b) If a part of this ordinance is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from the invalid applications.

§ 115. Attorney Fees and Expenses. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) The prevailing party in a tort action shall be entitled to recover attorney fees and expenses from the losing party.

(b) The prevailing party's attorney fees and expenses shall then be remitted to the Tribal government to fund the operations and costs of the Tribal Court in accord with the rules and regulations applicable to the Tribal budgetary process.

§ 116. Miscellaneous. [History: Tribal Act #94-12.176, enacted by Tribal Council on October 18, 1994.]

(a) In construing this ordinance, the present tense includes the past and future tenses, and the future tense includes the present tense.

(b) When reference is made to any portion of this ordinance, the reference shall apply to all amendments made hereafter.

(c) All Tribal ordinances or other laws inconsistent with this ordinance are hereby repealed. To the extent that this ordinance provides other than any other Tribal law governing tort claims against the Grand Traverse Band Economic Development Corporation, this ordinance shall govern. **[Amended by Tribal Act #21-39.3331, enacted by Tribal Council Special Session on April 28, 2021.]**

(d) Section headings shall be used only for reference to format and not in construing this ordinance.

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CHAPTER 2
Waiver of Sovereign Immunity and Jurisdiction in Commercial Transactions

§ 201. Purpose and Authority. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

The purpose of the Chapter is to provide for the waiver of sovereign immunity in those Economic Development Corporation commercial transactions for which such waiver is necessary and beneficial to the Tribe. This chapter is enacted in accordance with the authority contained in the GTB Constitution in Article IV, Section (1)(c).

§ 202. Findings and Declarations. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

The Tribal Council hereby finds and declares that:

(a) The Tribe and Tribal members benefit from commercial transactions conducted within the mainstream of the local and national economy, and the Tribe has become increasingly successful and sophisticated in such commercial transactions.

(b) Tribal sovereign immunity, an aspect of Tribal sovereignty, is an important protection for Tribal assets and resources, but it can at times be an impediment to commercial transactions. Many potential business partners of the Tribe are reluctant to enter into contracts unless Tribal sovereign immunity is waived, thereby allowing recourse in the event of tribal default or breach of contract. The Tribe finds it necessary and desirable to waive its sovereign immunity from time to time in a prudent and limited manner in order to consummate business transactions of benefit to the Tribe and its members.

(c) Federal courts, spurred by recent decisions of the United States Supreme Court, have been enforcing a requirement that a party exhaust its Tribal Court remedies for actions against the Tribe or Tribal members arising on the reservation before availing themselves of federal or state court. As with Tribal sovereign immunity, however, many potential business partners are reluctant to enter commercial transactions with the Tribe if they believe their remedy upon breach or default is limited to Tribal Court. Because of this reluctance, the Tribe finds it necessary and desirable from time to time to waive Tribal Court jurisdiction over particular commercial transaction.

(d) The Tribe has the authority to waive its sovereign immunity, provided it does so knowingly in express terms. Likewise, the Tribe has the constitutional authority to define the jurisdiction of the Tribal Court, and it can waive Tribal Court jurisdiction in a way that is contractually binding in the future if it does so in clear and unmistakable terms. The Tribe possesses the necessary experience, expertise and sophistication to determine when such waivers are in the best interests of the Tribe.

(e) The Tribe has chartered and will continue to charter subordinate Tribal entities, such as Economic Development Corporation which functions autonomously for the most part within their spheres of authority. This Tribal entity is of economic benefit to the Tribe and will often have a need of authority to waive their own immunity to facilitate commercial transactions.

(f) Any waiver of Tribal Court jurisdiction or sovereign immunity made in strict accordance with this Chapter is hereby declared to be in the best interests of the Tribe and it members. Such waiver does not infringe upon Tribal sovereignty, but instead is an affirmative expression and exercise of such sovereignty.

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§ 203. Definitions. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

As used in this Chapter:

(a) "Tribal Council" means the Tribal Council of the Grand Traverse Band, the Tribe's governing body duly elected pursuant to the Tribal Constitution.

(b) "Charter" means the organic document of a Tribal entity and includes the Economic Development Corporation Charter, 15 GTB § 202, and any approved articles of incorporation.

(c) "Tribal Entity" means any entity created and owned by the Tribe for economic or governmental purposes and any entity that is controlled by the Tribal Council. For purposes of this Chapter, an entity shall be deemed to be controlled by the Tribal Council if a majority of the persons serving on the body that governs the entity are chosen by the Tribal Council or are required to be members of the Tribal Council. Entities governed by the Chapter include, but are not limited to, the Economic Development Corporation, and other organizations entitled or denominated "authority," "enterprise," "corporation," "agency," "commission," or terms of like import; provided, however, that committees of the Tribal Council may not be deemed Tribal entities for purposes of the Chapter.

(d) "Tribal Court" means the Grand Traverse Band Tribal Court established by GTB Const. Art. V.

(e) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 204. Sovereign Immunity of Tribe. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

The sovereign immunity of the Tribe, including sovereign immunity from suit in any state, federal, or tribal court, is hereby expressly reaffirmed unless such immunity is waived in accordance with 15 GTBC § 216. A "sue and be sued" clause or other authorization of a Tribal entity to waive its own sovereign immunity may not constitute authorization for waiver of the immunity of the Tribe itself. Except for a charter provision expressly authorizing a Tribal entity to waiver the sovereign immunity of the Tribe itself, such as that contained in the Economic Development Corporation Charter, 15 GTBC § 217, nothing in a Tribal entity charter may be deemed or construed to be a waiver of the sovereign immunity of the Tribe of the consent of the Tribe to suit in any forum.

§ 205. Waiver of Sovereign Immunity of Tribe. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

(a) The sovereign immunity of the Tribe may be waived:

(1) By resolution of the Tribal Council expressly waiving the sovereign immunity of the Tribe and consenting to suit against the Tribe in any forum designated in the resolution; provided, that such waiver may not be general but must be specific and limited as to duration, grantee, transaction, property or funds of the Tribe subject to the waiver, court having jurisdiction and applicable law. Such waiver must be strictly construed and may be effective only to the extent expressly provided and must be subject to any conditions or limitations set forth in the resolution; or

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(2) By a Tribal entity exercising authority expressly delegated to such entity in the charter or specially by resolution of the Tribal Council; provided, that such waiver must be made in strict conformity with the provisions of the charter or resolution governing such delegation.

(b) No express waiver of sovereign immunity by resolution may be deemed a consent to the levy of any judgment, lien or attachment upon property of the Tribe other than the property specifically pledged, assigned or identified in the resolution.

§ 206. Sovereign Immunity of Tribal Entity. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

A Tribal entity is endowed by federal law and the provisions of this Chapter with all the privileges and immunities of the Tribe, except as specifically limited in the charter of the Tribal entity. This includes sovereign immunity from suit in any state, federal, or tribal court.

§ 207. Waiver of Sovereign Immunity of Tribal Entity. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

(a) The sovereign immunity of a Tribal entity may be waived:

(1) By a "sue and be sued" clause or other express waiver in the charter of the Tribal entity; or

(2) By express resolution of the governing body of the Tribal entity.

(b) Waivers of sovereign immunity by resolution may be granted only when necessary to secure a substantial advantage or benefit to the Tribal entity of the Tribe. Waivers of sovereign immunity by resolution may not be general but must be specific and limited as to duration, grantee, transaction, property or funds of the Tribal entity subject to the waiver, court having jurisdiction and applicable law.

(c) Neither a "sue or be sued" clause nor an express waiver of sovereign immunity by resolution of the Tribal entity may be deemed a consent to the levy of any judgment, lien or attachment upon the property of the Tribal entity other than the property specifically pledged, assigned or identified in the resolution, or of any property of the Tribe.

§ 208. Waiver of Sovereign Immunity for Proprietary Contracts. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

(a) Notwithstanding any other provisions of the Chapter, 15 GTBC § 218, the Tribe hereby waives its sovereign immunity, as well as the sovereign immunity of the Grand Traverse Band Economic Corporation, for any contract claim brought in accordance with this section, provided:

(1) The claim arises from an express, written contract signed by all parties to the contract;

(2) The claim is brought by a party to the contract or a party expressly made a third-party beneficiary under the terms of the contract;

(3) The contract was entered into by the Grand Traverse Band Economic Development Corporation or a Tribal Business Enterprise, as defined in 15 GTBC Chapter 2, Part 1, subordinate to the Grand Traverse Band Economic Development Corporation; and

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(4) The contract was entered into in the performance of a proprietary function, which means any activity conducted primarily for the purpose of producing a pecuniary profit for the Tribe, the Grand Traverse Band Economic Development Corporation, or a Tribal Business Enterprise excluding, however, any activity normally supported by a government unit by taxes or fees.

(b) Notwithstanding 15 GTBC § 202, the Tribe may not be subjected to suit under this section for:

(1) Any claim sounding in tort, as that term is defined in 6 GTBC § 115(a).

(2) Any claim arising from or based upon employment.

(3) Any claim founded upon a provision of:

(A) A constitution, statute, or regulation of the United States or any State;

(B) A code or ordinance of the Tribe or of any local unit of government; or

(C) The Constitution and Bylaws of the Tribe.

(4) Any claim for exemplary, punitive, or consequential damages.

(5) Any suit based upon a contract that contains provisions concerning sovereign immunity and consent to suit. For any such contract, the contractual provisions relating to sovereign immunity supercede the application of this section.

(c) The waiver extends solely to funds contained in the Grand Traverse Band Economic Development Corporation accounts, as defined in 15 GTBC § 266.

(d) The waiver of sovereign immunity contained in this section does not apply to any claim unless notice of the claim has been presented to the Tribe in writing within 180 days after such claim accrues, or within 90 days after the claim has been discovered or should have been discovered in the exercise of reasonable diligence, whichever is later. Notice must be served personally, by certified mail, return receipt requested, or by any other courier or delivery service for which a return receipt is obtained, upon the Tribal Council Secretary, Grand Traverse Band of Ottawa and Chippewa Indians, 2605 N. West Bayshore Drive, Peshawbestown, Michigan 49682. The notice must identify the contract upon which the complaint is based, the nature of the claim, and the relief requested. Service of a suit based upon the claim satisfies the notice requirement.

(e) The Tribe and the Grand Traverse Band Economic Development Corporation consent to suit in any court of competence jurisdiction for suits based upon contract claims arising under this section; provided, that this consent does not preclude objections to venue, forum non conveniens, or subject matter jurisdiction.

§ 209. Waiver of Tribal Court Jurisdiction. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

(a) The Tribal Council may waive by resolution the jurisdiction of the Tribal Court over any claim or cause of action that arises out of a commercial transaction involving the Tribe, a Tribal entity, or a Tribal member, if all of the following conditions are met:

(1) The commercial transaction is specifically identified in the resolution; and

(2) The resolution contains factual findings supporting the conclusions that:

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(A) The waiver is in the best interests of the Tribe, the Tribal entity or the Tribal member; and

(B) The transaction could not be consummated without such waiver.

(b) Any waiver of Tribal Court jurisdiction made in accordance with this section must be presumed to constitute a waiver of Tribal Court jurisdiction in clear and unmistakable terms and may not constitute an infringement upon Tribal sovereignty.

§ 210. Vesting of Contractual Rights. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

Any waiver of sovereign immunity or of Tribal Court jurisdiction by resolution as provided in this Chapter may be incorporated in the contract documents governing the transaction involved. When so incorporated, it is the intent and purpose of the Tribe that there is created a vested contractual right to the waiver that cannot be impaired or abrogated by the later repeal or amendment of this Chapter or of the resolution creating the right. The repeal or amendment of this Chapter or of any resolution containing a waiver of sovereign immunity or Tribal Court jurisdiction adopted in conformity with this Chapter, or any other Tribal action inconsistent with the waiver may not repeal, modify, abrogate or impair any provision or a contract containing a waiver of sovereign immunity of Tribal Court jurisdiction incorporated in such contract pursuant to this section.

§ 211. Applicability and Effective Date. [History: Adopted at a regular session of the Economic Development Corporation July 15, 2003, Resolution #03-021. Adopted by Tribal Act #03-21.1273 enacted by poll of Tribal Council on July 28, 2003.]

This Chapter shall take effect immediately upon its enactment by resolution of the Tribal Council. It shall have prospective application only and may not apply to or limit any waiver made by the Tribe or a Tribal entity acting within the scope of its authority prior to the effective date of this chapter.

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CHAPTER 3
Notice Ordinance

§ 301. Findings and Purpose. [History: Tribal Act #03-21.1318, enacted by Tribal Council on December 17, 2003.]

(a) Findings.

(1) The Tribe has a compelling interest in protecting Tribal sovereignty and jurisdiction; and

(2) Tribal sovereignty and jurisdiction may be questioned in cases in the Tribal Court in which the Tribe or any agency, officer, or employee thereof is not a party; and

(3) With adequate, timely, and uniform notice of cases in the Tribal Court that question Tribal sovereignty and jurisdiction, the Tribe can effectively assess whether and how to participate in such cases.

(b) Purpose. The purpose of this Ordinance is to provide the Tribe with adequate, timely, and uniform notice of any and all cases in the Tribal Court that question Tribal sovereignty and jurisdiction and in which the Tribe or any agency, officer, or employee thereof is not a party.

§ 302. Notice Required. [History: Tribal Act #03-21.1318, enacted by Tribal Council on December 17, 2003.]

(a) Party To Give Notice. Any party that questions Tribal sovereignty or jurisdiction in any action or proceeding in the Tribal Court will give notice in writing to the head of the Tribal Legal Department of the action or proceeding. Notice required under this Ordinance does not authorize a party to name the Tribe or any agencies, officers, or employees thereof, as a party to any action or proceeding.

(b) Notice By Tribal Court. The Tribal Court shall be required to always provide notice to the Tribal Legal Department of any action or proceeding that questions Tribal sovereignty or jurisdiction.

§ 303. Manner and Timing of Notice. [History: Tribal Act #03-21.1318, enacted by Tribal Council on December 17, 2003.]

(a) Advance Notice. Notice required under this Ordinance will be made not less than 60 days before Tribal sovereignty or jurisdiction is questioned in any action or proceeding.

(b) Proof of Notice Filed with the Court. Any party giving notice under this Ordinance will simultaneously file proof with the Tribal Court that notice has been given as required by this Ordinance.

§ 304. Tribal Participation Following Notice. [History: Tribal Act #03-21.1318, enacted by Tribal Council on December 17, 2003.]

(a) Amicus Curiae. Upon timely motion or application, the Tribe may appear as amicus curiae (friend of the court) in any action or proceeding that questions Tribal sovereignty or jurisdiction.

(b) Information Sharing and Consultation. In any action or proceeding in the Tribal Court that questions Tribal sovereignty or jurisdiction in which the Tribe does not intervene or appear as amicus curiae, the Tribe may nevertheless share important knowledge with any party involved in the action or proceeding. This could include assistance in responding to formal discovery requests or acting as an informal consultant.

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(c) No Participation. The Tribe may determine that it is in the best interest of the Tribe not to intervene, appear as amicus curiae, or otherwise participate in an action or proceeding in the Tribal Court that questions Tribal sovereignty or jurisdiction.

(d) The Tribal Council shall have a twenty-one day response period consistent with rules of civil procedure.

§ 305. Failure To Give Notice. [History: Tribal Act #03-21.1318, enacted by Tribal Council on December 17, 2003.]

(a) Failure to Give Notice Jurisdictional or Waiver of Rights. The failure of a party to give notice as required by this Ordinance does not deprive the Court of jurisdiction and is not a waiver of any rights otherwise timely asserted. Any notice given under this Ordinance is not a substitute for, or a waiver of, any other pleading requirement under Tribal law.

(b) Late Notice. If the Court or a party discovers that notice to the Tribe under this Ordinance should have been but has not been given, the Court or party will promptly give notice in writing to the Tribe as required by this Ordinance. The Court may stay the action or proceeding at any stage to allow compliance with this Ordinance. If final judgment has already been entered, the Tribe may motion or apply for rehearing as of right and the Court will entertain promptly any motions or applications for rehearing by the Tribe.

(c) Civil Sanctions. The Court may impose civil sanctions on any party for failure to give notice as required by this Ordinance, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this Ordinance.

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CHAPTER 4
Liquor Seller Liability for Damage by Intoxicated Person Ordinance

§ 401. Short Title. [History: Tribal Act #11-29.2288, enacted by Tribal Council in Special Session June 29, 2011.]

This ordinance shall be known as the Grand Traverse Band of Ottawa and Chippewa Indians Liquor Seller Liability for Damage by Intoxicated Person Ordinance.

§ 402. Findings and Declarations. [History: Tribal Act #11-29.2288, enacted by Tribal Council in Special Session June 29, 2011.]

The Tribal Council hereby finds and declares that:

(a) If the GTB, its entities, or authorized agents, acting within the scope of employment, sells or serves any alcoholic liquor to an intoxicated person, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another whether within or beyond the Reservation or jurisdiction of GTB, GTB or its entity shall pay just damages to the person injured, up to $250,000, or to person injured in consequence of such intoxication up to an aggregate amount of $250,000, to be recovered in an action under this section, provided the aggrieved person or persons shall give written notice to GTB of such person's or persons' intention to bring an action under this section. Such notice shall be given:

(1) Within 120 days of the occurrence of such injury to person or property; or

(2) In the case of death or incapacity of any aggrieved person, within 180 days of the occurrence of such injury to person or property.

(b) Such notice shall specify the time, the date and the person to whom such sale or service was made, the name and address of the person injured or whose property was damaged. It shall be sent by certified mail to the persons to whom service is made for actions under this Code pursuant to the GTB Tribal Court Rules of Civil Procedure. The defendant in any action brought hereunder shall be the GTB or its entity and any action shall be brought in the GTB Tribal Court. Just damages as may be awarded shall not be interpreted to allow multiple recoveries for the same injury under this or any other applicable law and shall be limited to $250,000. No action under the provisions of this section shall be brought but within one year from the date of the act. No such injured party shall have any cause of action for negligence, nuisance as a result of the sale or service of alcoholic liquor served to a person 21 years of age or older. In order to sustain a claim under this section, an injured party must provide that, at the time of sale or service, the individual was intoxicated and was demonstrating outward signs of intoxication such as an abnormal mental or physical condition due to the influence of intoxicating liquors, a visible excitation of the passions and impairment of the judgment, or a derangement or impairment of physical functions and energies.

(c) The provisions of this section shall be applied retroactively, as set forth in this Subsection (c). The notice provisions of this section shall not bar any claims from being brought pursuant to this section for injuries to person or property of another caused by an intoxicated individual, which are already pending in the GTB Tribal Court as of the date in which this section is enacted, provided that the complaint already contains a claim based on the sale or service of alcohol. The notice provisions of this section shall also not bar any claims which accrued within one calendar year of the enactment of this section. Such aggrieved person or persons covered under this subsection shall give written notice to GTB of such person's or persons' intention to bring an action within 120 days of the enactment of

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this section.

§ 403. Applicability and Effective Date. [History: Tribal Act #11-29.2288, enacted by Tribal Council in Special Session June 29, 2011.]

This chapter shall take effect immediately upon its enactment by resolution of the Tribal Council. It shall have prospective application only and may not apply to or limit any waiver made by the Tribe or a Tribal entity acting within the scope of its authority prior to the effective date of this chapter.

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§ 403 SOVEREIGN IMMUNITY

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Title 7

TRIBAL ENROLLMENT ORDINANCE

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

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 Re: Tribal Enrollment.

(g) Repeal and replace Title VII of the Grand Traverse Band Code.

(h) Repeal GTB Resolution #04-22.1379.

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

2.01 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 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 Affair's 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

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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 18 years.

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(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 that the person establishing that he or she is 1/4° Indian of which 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 years immediately prior to the adoption.

(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.

§ 3. Degree of Indian Blood (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.]

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 30 calendar days from the date

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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 30 days prior to changing such Tribal member's DIB.

(c) If, after 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.

§ 4. Eligibility for 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.]

4.01 Membership in the Tribe shall consist of the following:

(a) Base Roll Membership:

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(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 1/4 Indian descent [DIB as defined in this ordinance], of which at least 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 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 there upon 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

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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.

§ 5. Enrollment Procedure for Future 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.]

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 and only the parent(s) listed on the birth certificate shall be counted.

(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 Affidavit of Parentage shall not be accepted unless accompanied with a conforming original birth certificate.

5.05 The Membership Office shall make every effort to complete their review of each application within

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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.

§ 6. Membership by Tribal Adoption. [History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.]

6.01 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) 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 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 1/4 Indian blood degree of which at least 1/8 must be traced to the Historic Grand Traverse Bands 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 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

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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 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.

§ 7. Disenrollment. [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; and amended by Tribal Act #07-25.1843, enacted by Tribal Council on September 19, 2007.]

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 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 30 calendar days prior to disenrolling such Tribal member. If the notice sent by registered mail is returned to the Tribe as undeliverable, unclaimed, or in any other manner indicating the last known address of the Tribal member is no longer valid, a presumption shall exist that any further mailings or distributions, specifically limited to per capita benefits pursuant to 18 GTBC § 1611(b), will be undeliverable or unclaimed so such mailings or distributions will no longer occur until the Tribal member follows the provisions of 18 GTBC §§ 1611(a) and 1611(b) to claim such benefits or verify residence. As a condition precedent to obtaining any benefit under the terms of 18 GTBC § 1611(a) and 18 GTBC 1611(b), service of notice under 7 GTBC § 703(b) shall be effected prior to the delivery of any benefit under 18 GTBC § 1611(b).

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(c) If, after 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 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 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.

§ 8. Relinquishment of 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; as amended by Tribal Act #07-25.1843, enacted by Tribal Council on September 19, 2007.]

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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 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 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 acceptance of the minor child's relinquishment, the Tribal Council shall deem the child 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 18 years for his/her land claims distribution and the age of 19 years for his/her per capita gaming account distribution consistent with the amended Revenue Allocation Ordinance.[5]

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.

§ 9. Appeal of Enrollment Decisions. [History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.]

9.01 All appeals of decisions of the Membership Department Manager and/or Tribal Council shall be heard by the Tribal Court (excluding applications for adoption).

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5. Editor's Note: See Title 18, Gaming, Ch. 16, Revenue Allocation.

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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 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.

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

10.01 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

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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

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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

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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 20 calendar days after the date of the denial.

§ 11. Preparation of Tribal Member Directory. [History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.]

11.01 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.

§ 12. Tribal Identification Cards. [History: Tribal Enrollment Ordinance adopted by Tribal Council on July 19, 2006, and readopted on August 30, 2006, by Tribal Act #03-21.1319.]

12.01 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.

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

13.01 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.

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Title 8

CONSERVATION, ECOLOGY & HUNTING/FISHING

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CHAPTER 1
(Reserved)

[History: Former Chapter 1, Uniform Conservation Code of the Ottawa and Chippewa of Northern Michigan, originally enacted and amended by ordinance of the Tribal Council, was rescinded as a Tribal ordinance on December 15, 2004, by Tribal Act #04-22.1470. Said Act provides as follows:

BE IT RESOLVED, that the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians rescinds as tribal ordinances the comprehensive regulations governing the exercise of rights on both the Great Lakes and in inland areas of the territory ceded in the 1839 Treaty;

BE IT FURTHER RESOLVED, that the "CORA Regulations" shall continue to govern fishing activities upon the Great Lakes and the Tribe's separate inland regulations (referenced as the "Uniform Conservation Code of the Ottawa and Chippewa of Northern Michigan" but enacted as separate Grand Traverse Band regulations) shall continue to govern tribal members, the current version being the "2004/ 2005 Hunting, Fishing, Trapping, Gathering Regulations revised July 21, 2004."]

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CHAPTER 2
(Reserved)

[History: Former Chapter 2, Treaty and Commercial Fishing, originally enacted as Part 1, Chippewa-Ottawa Treaty Fishery Management (COTFMA) Regulations [adopted on September 1, 1995 by the Chippewa/Ottawa Treaty Fishery Management Authority (of which the Grand Traverse Band is a member)], and Part 2, GTB Regulations for Tribal Commercial Fishermen [adopted and amended by Tribal Council ordinance], were rescinded as Tribal ordinances on December 15, 2004, by Tribal Act #04-22.1470. Said Act provides as follows:

BE IT RESOLVED, that the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians rescinds as tribal ordinances the comprehensive regulations governing the exercise of rights on both the Great Lakes and in inland areas of the territory ceded in the 1839 Treaty;

BE IT FURTHER RESOLVED, that the "CORA Regulations" shall continue to govern fishing activities upon the Great Lakes and the Tribe's separate inland regulations (referenced as the "Uniform Conservation Code of the Ottawa and Chippewa of Northern Michigan" but enacted as separate Grand Traverse Band regulations) shall continue to govern tribal members, the current version being the "2004/ 2005 Hunting, Fishing, Trapping, Gathering Regulations revised July 21, 2004."]

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CHAPTER 3
Soil Erosion and Stormwater Runoff Control

§ 301. Purpose and Objective. [History: Soil Erosion and Stormwater Runoff Control Ordinance, adopted by Tribal Council on January 21, 1997.]

(a) Purpose. The purpose of this ordinance is to prevent the pollution, impairment, or destruction of a natural resource or the public trust on Tribal lands unless:

(1) There is no feasible and prudent alternative and

(2) The activity is consistent with the promotion of the public health, safety and welfare in light of the Tribe's paramount concern for protection of the natural resources.

(b) Objectives. Specific objectives include the following:

(1) To prevent accelerated soil erosion and to control stormwater runoff resulting from earth changes proposed within the Tribal lands, both during and after construction.

(2) To assure that the Tribe and Tribal members control the volume and rate of stormwater runoff originating from Tribal lands so that surface water and groundwater quality is protected, soil erosion is minimized, and flooding potential reduced.

(3) To develop specific penalties for violations regarding this ordinance.

§ 302. Definitions. [History: Soil Erosion and Stormwater Runoff Control Ordinance, adopted by Tribal Council on January 21, 1997.]

The following terms and phrases shall have the meaning given herein, unless the context otherwise requires:

(a) "accelerated soil erosion": the increased movement of soils that occurs as a result of human activities and development.

(b) "best management practice (BMP)" - structural device, measure, facility, or activity which helps to achieve soil erosion and stormwater management control objectives at a designated site.

(c) "channel" - the portion of a natural stream which conveys normal flows of water, or a ditch or channel excavated for the flow of water.

(d) "commercial use" - all land uses. The use of property in connection with the purchase, sale, display, or exchange of goods, merchandise, or personal services, as well as the maintenance or operation of businesses or recreational or amusement enterprises.

(e) "control plan" - Soil Erosion and Stormwater Runoff Control Plan

(f) "conveyance facility" - a surface or subsurface structure or channel which transports stormwater runoff.

(g) "drain" - drains established and/or constructed.

(h) "depression storage" - the portion of precipitation trapped in depressions in the ground surface.

(i) "design standard (or engineering design standard)" - a specification that prescribes the type of design,

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location, mode of construction, mode of operation, or other engineering detail for soil erosion or stormwater control facilities.

(j) "design storm" - a rainfall event that has a specific statistical probability of occurring in any given year. For example, a two-year design storm is a storm with a 50% chance of occurring during the year. Design storm figures are used to calculate the runoff volume and peak discharge rate through a detention or retention basin or other stormwater management facility.

(k) "designated use" - the use of a stream segment assigned by the Tribe as part of the regulatory process of establishing water quality control standards. Uses maybe public drinking water supply, irrigation, recreational use, fishing, or other categories, as established by the Tribe.

(l) "detention basin" - a structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events.

(m) "discharge" - the rate of flow of water through an outlet structure at a given point and time, measured in cubic feet per second (cfs).

(n) "disturbed area" - an area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling.

(o) "drainage" - the interception and removal of groundwater or surface water by natural and artificial means.

(p) "drainage well" - a bed of stone or hole in the ground constructed for the purpose of trapping stormwater for infiltration into the ground.

(q) "downstream" - lands and waters which receive stormwater runoff and other surface water flows from a designated site.

(r) "drainage system" - all facilities, channels, and areas which serve to convey, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

(s) "earth change" - a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the Tribal lands. The term "earth change", as used in this ordinance, shall not apply to the practice of plowing or tilling soil for the purpose of crop production.

(t) "enforcement officer" - person(s) or entities designated by the Tribal Council to enforce this ordinance including permit administration.

(u) "environmentally sensitive sites" - includes site with one or more of the following characteristics:

(1) Sites where driveways have been planned with a slope greater than 10% (10 feet horizontal to one-foot vertical).

(2) Sites with heavy clay soils (commonly termed hardpan clay), and soils classified in hydrological Group D in the soil surveys published by the Soil Conservation Service, U.S. Department of Agriculture.

(3) Sites which may cause sedimentation or flood onto adjacent land areas if earth changes occur.

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(4) Sites located within 100 feet of a wetland.

(5) Other environmentally sensitive sites identified by the Tribal government as having a high potential for environmental degradation including flooding as a result of soil erosion or stormwater runoff on-site or off-site.

(v) "erosion" - see "soil erosion" definition.

(w) "excess runoff" - surface runoff that cannot be accommodated satisfactorily by the natural or planned drainage systems.

(x) "extended detention basin" - detention basin designed to provide substantial removal of suspended solids and particulates, typically achieved by holding stormwater for 24 hours or more.

(y) "fill material" - soil, sand, gravel, clay, or any other non-polluting material which displaces soil or water or reduces water retention potential in a lake, pond, stream, or wetland.

(z) "flood" - an overflow of surface water onto lands not normally covered by water. Floods have these essential characteristics: the inundation of land is temporary and results from unusually heavy precipitation; and the land is inundated by overflow for a lake, pond, stream, and/or wetland, or is flooded by natural runoff.

(aa) "floodplain" - the area of land adjoining a lake or stream which is inundated when the flow exceeds the capacity of the normal channel. For mapping purposes, floodplains are designated according to the frequency of the flood event, such as the 100-year floodplain or 500-year floodplain.

(bb) "grading" - any stripping, clearing, stumping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

(cc) "impervious area" - impermeable surfaces, such as paved or gravel driveways, parking areas, or roads which prevent the infiltration of water into the soil.

(dd) "industrial use" - any manufacturing, fabrication, assembly, printing, or improvement of articles or merchandise; warehousing, wholesaling, or storage of goods, vehicles, or materials; research and medical laboratories; mining and activities related to mineral extraction and processing; and other business enterprises not classified as commercial.

(ee) "infiltration" - the downward movement or seepage of water from the surface to the subsoil and/or groundwater. The infiltration rate is expressed in terms of inches per hour.

(ff) "infiltration facility" - a structure or area which allows stormwater runoff to gradually seep into the ground, e.g. french drains, seepage pits, infiltration basin, dry well, or perforated pipe.

(gg) "lake" - a permanent body of open water which is five acres or more in size.

(hh) "land owner/lessee" - the Tribe or any allottee/lessee of Tribal lands, including subsidiary commissions or entities.

(ii) "land use" - a use of land which may result in an earth change, including but not limited to subdivision, site condominium, residential, commercial, industrial, recreational, agricultural practices, other development, private and public highway, road and/or stream crossing construction, and drainage construction.

(jj) "land use committee" - the Committee created by the Tribal Chairperson and/or Tribal Council

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responsible for administering the provisions of this ordinance, including successor committee(s) designated by a different title.

(kk) "landscaping" - mowing, seeding, sodding, and other landscaping activities which are not earth changes.

(ll) "maintenance agreement" - a binding agreement between the Tribal member and the Tribe which sets forth the location and design of best management practices, as well as the terms and requirements for stormwater and erosion control facility maintenance recorded with the Tribal Register of Deeds.

(mm) "material" - soil, sand, gravel, clay, or any other organic or inorganic material which is not municipal refuse.

(nn) "Non-erosive velocity" - a rate of flow of stormwater runoff, measured in feet per second, which does not erode soils. Non-erosive velocities vary for individual sites, taking into account topography, soil type, and runoff rates.

(oo) "normal maintenance" - landscaping, repairs, road leveling, minor excavation or filling at a developed site, or other activities determined by the Land Use Committee to be exempt from permit requirements, provided that such activities do not violate standards in this ordinance.

(pp) "off-site facility" - stormwater management or erosion control facility which is located partially or completely off the development site.

(qq) "ordinary high water mark" - the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

(rr) "outfall" - the point where water flows out from a conduit, drain or stream.

(ss) "outlet" - a stream or facility receiving the flow from a basin, drain, or other stormwater management facility.

(tt) "peak rate of discharge (peak flow)" - the maximum calculated rate of stormwater flow at a given point in a channel, watercourse, or conduit resulting from a predetermined frequency storm or flood, measured in cubic feet per second (cfs).

(uu) "permit" - soil erosion and stormwater runoff control permit.

(vv) "person" - any individual, partnership, company, organization or legal entity of any kind, including governmental agencies.

(ww) "pollution" - degradation of water quality, preventing the use of water for some specific purpose, caused by a natural or human-made substance.

(xx) "pond" - a permanent or temporary body of open water which is more than one acre in size and less than five acres in size.

(yy) "protected wetland" - a wetland which meets one or more of the following criteria:

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(1) A wetland which is within 500 feet of a lake or stream;

(2) A wetland which is five or more acres in size;

(3) A wetland set aside for protection by the Tribal Council; or

(4) A wetland subject to regulation by the federal government.

(zz) "Receiving body of water" - any lake, pond, stream, wetland, or groundwater into which stormwater runoff is directed.

(aaa) "Regional detention basin" - a basin to detain water flow from a number of development sites or a small watershed.

(bbb) "Retention basin" - a wet or dry stormwater holding area, either natural or human-made, which does not have an outlet to adjoining watercourses or wetlands other than an emergency spillway.

(ccc) "Runoff" - stormwater runoff.

(ddd) "Sediment" - mineral or organic solid particulate matter that has been removed from its site of origin by: 1) soil erosion; 2) suspension in water; and/or 3) wind or water transport.

(eee) "Sedimentation" - the process or action of depositing sediment.

(fff) "Site" - any tract, lot, or parcel of land or combination of tracts, lots or parcels of land proposed for development.

(ggg) "Soil erosion" - the wearing away of land by the action of wind, water, gravity, or a combination thereof.

(hhh) "Soil erosion control facilities and measures" - any structure, facility, barrier, berm, vegetative cover, basin, or other measure which serves to control soil erosion in accordance with the purposes and standards of this ordinance. "Temporary measure" refers to installations designed to control soil erosion during construction or until soils in the contributing drainage area are stabilized. "Permanent measure" refers to installations designed to control soil erosion after a project is completed.

(iii) "Soil erosion and stormwater runoff control plan" - maps and written information for a proposed land use or earth change which describe the way in which soil erosion and stormwater runoff will be controlled, during and after completion of construction.

(jjj) "Soil erosion and stormwater runoff control permit" - signed, written statement issued under this ordinance authorizing the applicant to engage in specified earth changes.

(kkk) "Stop-work order" - a notice issued by the enforcement officer(s) designated by the Tribal Council or an authorized agent of the Tribe to the permittee to require the permittee to cease grading or development activities.

(lll) "Storage facility" - a basin, structure, or area, either natural or human-made, which is capable of holding stormwater for the purpose of reducing the rate of discharge from the site.

(mmm) "Storm drain" - a conduit, pipe, natural channel or human-made structure which serves to transport stormwater runoff.

(nnn) "Storm frequency" - the average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.

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(ooo) "Stormwater control facilities and measures" - any facility, structure, channel, area, or vegetative cover, or measure which serves to control stormwater runoff in accordance with the purpose and standards of these regulations.

(ppp) "Stormwater runoff - waters from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses, or conduits, measured in depth of inches.

(qqq) "Stream" - a river, stream, or creek which may or may not be serving as a drain which has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

(rrr) "stream bank" - the usual boundaries, not the flood boundaries, of a stream channel.

(sss) "Stripping" - any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

(ttt) "Swale" - low-lying grassed area with gradual slopes which transports stormwater, either on-site or off-site.

(uuu) "Timber" - forest, trees, wood for building.

(vvv) "Vegetative cover" - grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

(www) "Water quality standards" - minimum standards established by the United States Environmental Protection Agency Region V or standards established by the Tribe.

(xxx) "Watercourse" - any natural or human-made waterway, drainage-way, drain, river, stream, diversion, ditch, gully, swale, or ravine having banks, a bed and a definite direction or course, either continuously or intermittently.

(yyy) "Watershed" - a land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

(zzz) "Wetland" - land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstance, does support wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. A wetland will contain a predominance, not just an occurrence, of wetland vegetation, aquatic life, or hydric soil.

(aaaa) "Wetland vegetation" - plants, including but not limited to trees, shrubs, and herbaceous plants, that exhibit adaptations to allow, under normal conditions, germination or propagation, and to allow growth with at least their root systems in water or saturated hydric soil.

§ 303. Permit Requirements. [History: Soil Erosion and Stormwater Runoff Control Ordinance, adopted by Tribal Council on January 21, 1997.]

(a) Jurisdiction for Permit Administration

(1) The enforcement officer(s) designated by Tribal Council shall enforce regulated earth changes proposed within the boundaries of the Tribal lands.

(2) Earth changes carried out by the Tribe, subsidiary commissions, enterprises, etc. and individuals or other entities within the Tribe's jurisdiction shall abide by this ordinance.

(b) Regulated Earth Changes. Earth changes requiring a soil erosion and stormwater runoff control permit from the enforcement officer(s) designated by the Tribal Council include the following:

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(1) Earth changes connected with any of the following activities which disturb land within 500 feet of a lake or stream, except for normal maintenance:

(A) Transportation facilities, including streets, access roads, railroads, airports, common carrier pipelines, and mass transit facilities, except normal maintenance procedures such as earth or gravel road leveling and minor repairs or alterations to rights-of-way not affecting a lake or stream.

(B) Site preparation for a single-family residence and multiple family residential developments.

(C) Tribal buildings and service facilities, including but not limited to government buildings and facilities, commercial buildings, schools, vehicle maintenance facilities, and salt storage facilities.

(D) Recreational facilities, including but not limited to parks, golf courses, beaches above the ordinary high water mark, campgrounds or trails, including Tribal or private facilities.

(E) Utilities, including but not limited to underground pipelines or cables, except pole installation, service line and other earth changes of a minor nature, and emergency repairs.

(F) Oil, gas, and mineral wells. Access roads to well production sites shall be subject to permit requirements.

(G) Non-agricultural water impoundments and waterway construction or improvements.

(H) Logging activities including access roads, except the principal area where the trees are being cut.

(I) Mining activities including access roads, except the principal area where minerals are being removed.

(J) Earth changes on agricultural lands, including road construction and building construction, but not including plowing and tilling of soil for the purpose of crop production.

(2) Earth changes for environmentally-sensitive residential sites.

(3) Industrial or commercial use development sites, regardless of size, location, or environmental sensitivity.

(4) (A) All developments which includes housing, commercial, subsidiary enterprises, individual or other entity developments within the Tribe's jurisdiction regardless of size, location, or environmental sensitivity.

(B) All multi-family developments regardless of size, location or environmental sensitivity.

(c) Identification of Environmentally-Sensitive Sites.

(1) Tribal land owners and lessees are responsible for determining whether their sites are environmentally-sensitive as defined in this ordinance (§ 302(u)).

(2) The Tribal administration and/or the county conservation district shall be requested to provide assistance to land owners and lessees in identifying earth changes and environmentally-sensitive sites subject to review by the enforcement officer(s) designated by the Tribal Council.

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(d) Permit Application Submittal.

(1) All applications for soil erosion and stormwater runoff control permits shall include one copy of the proposed soil erosion and stormwater runoff control plan unless more copies are requested by the enforcement officer(s) designated by the Tribal Council.

(2) Permit applications shall be submitted to the enforcement officer(s) designated by the Tribal Council.

(3) Application for a permit shall be made prior to the start of any earth change including construction of access roads, driveways, cutting of trees/timber and stump removal, or grading. Permit approval shall be given prior to the initiation of any work activity. Any unauthorized work shall be considered a violation of these procedures regardless of any later actions taken toward compliance. Soil test borings, vegetative cutting for land surveys, percolation tests, and normal maintenance shall not be considered a start of work under these regulations.

(4) The application review period begins upon receipt of a completed application.

(e) Sequential Applications.

(1) On projects which are so large or complex that a plan encompassing all phases of the project cannot be reasonably be prepared prior to initial groundbreaking, application for permit on successive major incremental applications shall be approved by the enforcement officer(s) designated by the Tribal Council prior to the submittal of a permit application.

(2) Approval of sequential applications shall take place in phases. The overall conceptual plan for the entire development shall be submitted for review and approval. And, detailed plans for sections of the total project may be submitted for review and approval.

(3) All permits processed and issued for phases of a project shall be clearly defined as to the nature and extent of work covered. Each phase of the project must be reviewed and permitted prior to construction.

(f) Permit Approval or Disapproval.

(1) If the enforcement officer(s) designated by the Tribal Council determines that the proposed soil erosion and stormwater runoff control plan complies with the standards of this ordinance, a permit shall be issued specifying the work approved. If the proposed plan does not comply with these standards, the permit request shall be modified or denied.

(2) Upon request, the enforcement officer(s) designated by the Tribal Council shall furnish the applicant or other interested person with a statement in writing of the reasons for permit denial or approval.

(3) If necessary, the enforcement officer(s) designated by the Tribal Council may request additional information from the applicant.

(g) Permit Expiration or Revocation.

(1) Permits shall terminate automatically if construction has not commenced within one year of the date of issuance. The permit holder may request a one year extension if there are valid reasons to support such an extension.

(2) Any permit issued by the enforcement officer(s) designated by the Tribal Council under this

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ordinance may be revoked or suspended, after notice and an opportunity for a hearing, for any of the following causes:

(A) A violation of a condition of the permit.

(B) Obtaining a permit by misrepresentation or failure to fully disclose relevant facts in the application or soil erosion and stormwater runoff control plan.

(C) A change in a condition that requires a temporary or permanent change in the activity.

(h) Administration Fee Schedule.

(1) The Tribal Council may adopt a fee schedule for administration of this ordinance.

(2) Permit fees shall be directly related to the actual costs of administering the soil erosion control and stormwater management permit program of the enforcement officer(s) designated by the Tribal Council, including site inspection costs and permit administration costs.

(3) The fee schedule shall be proposed by the enforcement officer(s) designated by the Tribal Council and approved by the Land Use Committee and Tribal Council.

(i) Penalties for Initiating Earth Change Activities Without a Permit. Any earth change activities without a valid permit or in violation of a permit or permit conditions shall be considered a violation of this ordinance and subject to fines and other penalties as provided in this ordinance.

(j) Issuance of Land Use and Building Permits.

(1) The Tribal Council through recommendation by the Land Use Committee, which recommends land use permits and/or building permits for approval to Tribal Council shall notify the enforcement officer(s) designated by the Tribal Council upon receipt of an application involving an earth change subject to permit requirements under this ordinance.

(2) The Tribal Council shall not issue a land use/building permit for an earth change subject to permit requirements until a soil erosion and stormwater runoff control permit has been issued by the enforcement officer(s) designated by the Tribal Council.

(3) The Tribal land owner or lessee shall notify the enforcement officer(s) designated by the Tribal Council after a permit decision has been made.

(k) Soil Erosion and Stormwater Runoff Control Plan. A soil erosion and stormwater runoff control plan shall be prepared for any earth change subject to permit requirements. The plan shall be designed to effectively reduce accelerated soil erosion and sedimentation during construction and after construction is completed.

(1) Residential Development or Environmentally Sensitive Site Plans for Earth Changes. A residential or environmentally sensitive site plan shall show the following:

(A) Location of the site.

(B) Site characteristics, such as location of lake, stream, wetlands or existing buildings.

(C) Proposed earth change activity.

(D) Erosion control measures proposed. If there are severe development limitations in regards to the existing site characteristics, the enforcement officer(s), designated by the Tribal

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Council, may require that a residential or environmentally sensitive plan be prepared by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect.

(2) Other Land Uses, Site Plans for Section III-B Earth Changes. The submitted site plans shall show the following:

(A) A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the enforcement officer(s) designated by the Tribal Council, including a legal description and site location sketch which includes the proximity of any proposed earth change to lakes or streams or both; predominant land features; and contour intervals or slope description.

(B) A soils survey or written description of the soil types of the exposed land area contemplated for the earth change.

(C) A description and the location of the physical limits of each proposed earth change.

(D) Location of all lakes, streams, and protected wetlands partially or completely contained within the boundaries of the site or within 50 feet of the site boundary.

(E) A description and the location of all existing and proposed on-site stormwater management facilities and measures.

(F) The timing and sequence of each proposed earth change.

(G) A description and the location of all proposed temporary soil erosion control facilities and measures.

(H) A description and the location of all proposed permanent soil erosion control facilities and measures.

(I) Stormwater runoff calculations.

(J) A program for the continued maintenance of all permanent soil erosion and stormwater runoff control facilities and measures as listed in § 303(n).

(K) Other information which the enforcement officer(s) designated by the Tribal Council requires to review the impact of the proposed earth change in relationship to the standards and requirements of this ordinance.

(3) Housing Plat Site Plan. The permittee shall submit the same information as in § 303(k)(2) of this ordinance and may need to submit additional information including but not limited to the following: off-site watershed boundaries; existing and proposed easements, and proposed drainage system including water movement onto and out of the proposed plat.

(4) Road Construction. The construction of roads on Tribal lands shall make the best effort to meet the goals and guidelines of this ordinance for soil erosion and stormwater runoff on all new roads constructed after the adoption of this ordinance. Stormwater retention/detention shall be compatible to the current highway safety guidelines, maintenance practices, and general drain laws that govern natural surface water flow, concentration, location and/or velocity.

(l) General Standards for Approval of Soil Erosion and Stormwater Control Plans.

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(1) The enforcement officer(s) designated by the Tribal Council, shall approve or disapprove soil erosion and stormwater runoff control permit applications and plans in accordance with published guidelines.

(2) All earth changes subject to review under requirements of this ordinance shall be designed, constructed, and maintained to provide for the detention of flood waters and to protect water quality.

(3) Measures required for soil erosion and stormwater runoff control shall take into consideration natural features, proximity of the site to lakes, streams, and protected wetlands, extent of impervious surfaces, potential for soil erosion and flooding, and the size of the site.

(4) Stormwater conveyance, storage, and infiltration facilities shall be designed to provide for non-erosive velocities of stormwater runoff.

(5) Alterations to natural drainage patterns shall not create or increase downstream flooding or sedimentation.

(6) When a proposed earth change is located in an area where a watershed plan has been approved by the Land Use Committee and Tribal Council, the standards for stormwater detention and retention volumes, discharge rates, and stormwater facility locations specified in the approved watershed plan shall be deemed to meet the requirements of this ordinance.

(m) Off-Site Stormwater Control.

(1) Waiver Option. In lieu of on-site stormwater facilities and measures, the use of off-site stormwater facilities and measures, together with on-site erosion control, may be proposed. In such cases, a request for a waiver of the requirements for on-site stormwater runoff control can be made. The waiver request shall be submitted to the enforcement officer(s) designated by the Tribal Council, with a permit application and a soil erosion and stormwater runoff control plan, including information specified in § 303(k) of this ordinance. This waiver option does not allow for changes in the requirements for on-site soil erosion control.

(2) Shared Off-Site Stormwater Control Facilities.

(A) Off-site stormwater control areas may be shared between two or more properties or developments, provided that maintenance agreements have been approved by the enforcement officer(s) designated by the Tribal Council, and easements have been obtained and recorded.

(B) Stormwater management easements are required for all areas used for off-site stormwater control unless an exception has been granted by the enforcement officer(s) designated by the Tribal Council. Easements shall be recorded with the Tribal Register of Deeds prior to approval of the final development plan by the enforcement officer(s) designated by the Tribal Council.

(3) Applicable Standards. General Standards specified in § 303(1) of this ordinance shall be used in reviewing proposed soil erosion and stormwater runoff control plans for off-site stormwater facilities and measures.

(n) Maintenance.

(1) All soil erosion and stormwater runoff control facilities and measures shall be maintained in

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accordance with permit conditions.

(2) The person(s) or Tribal department responsible for maintenance shall be designated in the Soil Erosion and Stormwater Runoff Control Plan or in the permit application submitted to the enforcement officer(s) designated by the Tribal Council. Options include:

(A) The owner or lessee of the property.

(B) The Tribal department, provided that provisions for financing necessary maintenance are included in the deed restrictions or other contractual agreements.

(C) The enforcement officer(s) designated by the Tribal Council may set up a drainage district.

(3) The enforcement officer(s) designated by the Tribal Council will make the final decision of what maintenance option is appropriate in a given situation. Natural features, proximity of site to lakes, streams and protected wetlands, extent of impervious surfaces, size of the site and potential need for ongoing maintenance activities will be considered when making this decision.

(o) Stormwater Management Easements.

(1) Stormwater management easements shall be provided by the Tribe if necessary for: A) access for facility inspections and maintenance, or B) preservation of stormwater runoff conveyance, infiltration, and detention year storm event. The purpose of the easement shall be specified in the maintenance agreement signed by the property owner or lessee.

(2) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the enforcement officer(s) designated by the Tribal Council.

(3) Easements shall be recorded with the Tribal Register of Deeds prior to issuance of a certificate of compliance by the enforcement officer(s) designated by the Tribal Council (see following § 303(p)(2)).

(p) Compliance Assurances.

(1) Construction Certification by Registered Professional. For any sites that required a professional site plan, a certification letter shall be submitted after soil erosion and stormwater runoff control facilities have been installed to affirm that construction has been completed in accordance with the approved Soil Erosion and Stormwater Runoff Control Plan. This certification letter can be prepared by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect unless it was specified by the enforcement officer(s) designated by the Tribal Council that a civil engineer prepare a plan. If there are changes during the course of construction, the enforcement officer(s) designated by the Tribal Council may require final "as built" drawings for final approval of the site work.

(2) Certificate of Compliance. Upon receipt and approval of the certification letter, the enforcement officer(s) designated by the Tribal Council shall issue a certificate of compliance to the property owner or lessee.

(q) Inspections.

(1) Enforcement officer(s) designated by the Tribal Council may enter at reasonable times upon any property to conduct on-site inspections. Such inspections may take place before, during and after any earth change activity for which a permit has been issued.

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(2) If, upon inspection, site conditions are found not to be as stated in the permit or approved Soil Erosion and Stormwater Runoff Control Plan, the permit will be invalid. No earth disrupting work shall be undertaken, or continued, until revised plans have been submitted and a valid permit issued.

(3) Requests for revisions must be submitted in writing to and approved by the enforcement officer(s) designated by the Tribal Council before being effective unless approved by the field inspector on the site. If approved, a revised site plan shall be submitted for review and approval.

(r) Stop-Work Orders and Emergency Actions.

(1) If necessary to assure compliance with the permit requirements, standards, and other provisions of this ordinance, or to protect public health, safety and welfare, the enforcement officer(s) designated by the Tribal Council may issue a stop-work order for the purpose of preventing or minimizing accelerated soil erosion, stormwater runoff, or other conditions posing imminent and substantial danger to public health, safety, welfare, or natural resources.

(2) If necessary to protect public safety or water resources, including lakes, streams, protected wetlands, and other receiving bodies of water, the enforcement officer(s) designated by the Tribal Council may initiate emergency action to abate imminent and substantial danger and risk.

(3) Except as otherwise provided through maintenance agreements, the land owner/lessee may be held responsible for reimbursing the Tribe for all costs incurred as a result of emergency action, including administrative costs, provided that a finding is made that the land owner/lessee violated provisions of this ordinance, a permit, or an approved maintenance agreement.

(4) The stop-work order, when issued, shall require all specified earth change activities to be stopped.

(5) If the enforcement officer(s) designated by the Tribal Council determines that soil erosion and sedimentation of the waters regarding this Tribe has or will reasonably occur from a parcel of land in violation of this ordinance, it may seek to enforce the ordinance by notifying the person who owns the land or leases the land, by mail, with return receipt requested, of its determination. The notice shall contain a description of specific soil and sedimentation control measures which, if implemented by the land owner or lessee, would bring the owner or lessee into compliance.

(6) A person who owns land or leases land subject to this ordinance shall implement and maintain soil erosion and stormwater runoff control measures in conformance with this ordinance within 10 days after the notice of violation has been given as specified in subsection (5) above.

(s) Enforcement Action.

(1) All earth changes on Tribal lands are subject to the enforcement provisions and penalties of this ordinance.

(2) A person who owns or leases the land on which an earth change has been made that may result in or contribute to soil erosion or sedimentation of the waters shall implement and maintain soil erosion and sedimentation control measures that will effectively reduce soil erosion or sedimentation from the land on which the earth change has been made.

(3) The enforcement officer(s) designated by the Tribal Council shall notify the Land Use Committee of all violations of this ordinance, including violations attributable to an earth change created by an authorized Tribal agency.

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(4) Each act of violation, and every day upon which any violation shall occur or continues to occur, shall constitute a separate offense.

(5) A person who has not complied with this ordinance and who, after notice, refuses to implement and maintain soil erosion control and stormwater runoff control measures and facilities in conformance with these regulations shall be subject to a fine of not more than $500 or 30 days in jail, or both; plus the cost of prosecution, remediation expenses and/or restitution may also be ordered as costs.

(t) Right of Appeal.

(1) The Land Use Committee may recommend that the Tribal Council approve a variance of this ordinance if there is no feasible and prudent alternative. The Land Use Committee also has jurisdiction to consider zoning variances including suggested setbacks when a zoning variance is currently considered. If a zoning variance is approved, it must be ratified by the Tribal Council.

(2) Any person aggrieved by the action or inaction of the enforcement officer(s) designated by the Tribal Council related to this ordinance may appeal to the Land Use Committee.

(3) The Land Use Committee shall conduct an administrative hearing of any appeals. A complete record of the hearing shall be prepared if an aggrieved person determines to appeal to the Tribal Court.

(4) The appeal to the Tribal Court shall be an administrative appeal and not a trial de novo.

(u) Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by the Tribal Court, the remainder of the ordinance shall not be affected.

(v) Effective Date. The ordinance shall take effect when approved by the Tribal Council.

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CHAPTER 4

Tribal Implementation of 26 U.S.C. § 7873; "Income derived by Indians from the exercise of fishing rights"

§ 401. GTB Tribal Policy to Defend This Chapter in Federal Tax Proceedings. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) It shall be the Tribal Policy of the Grand Traverse Band of Ottawa and Chippewa Indians (GTB, Tribe), acting as a government, to defend this chapter as a reasonable interpretation of the Tribe's governmental obligation to its members in interpreting 26 U.S.C. § 7873 consistent with existing federal law and the additional Tribal Constitutional obligation of the Tribal government to individual Tribal members to protect treaty rights to "fish, hunt, trap and gather food." GTB Constitution, Article X, Section 2.

§ 402. Purpose. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) The purpose of this chapter is to state the public policy of the Tribe and to establish a method of implementing the Tribal public policy on the scope and application of 26 U.S.C. § 7873 for purposes of Tribal employees claiming the exemption via a percentage allocation made by the employee and verified by the GTB Human Resources Department.

(b) This Tribal statute is implemented pursuant to 25 U.S.C. § 476, (Tribal constitutional organization); 25 U.S.C. § 450 et seq. (as an act of Self-Governance); Article IV, Section 1(c) of the Tribal Constitution (powers of the Tribal Council to make laws); and Article XI, Section 2 of the Tribal Constitution (Land Use and Natural Resources Conservation Plans Required).

§ 403. Applicability and Scope; Damages; Third Party Rights. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) This chapter shall apply to all Tribal members and members of other federally recognized who share in the treaty right established by Article 13 of the 1836 Treaty of Washington, 7 Stat. 491 (March 28, 1836). Further, the case law decision and the continuing Consent Decree in U.S. v. Michigan, 471 F. Supp. 192 (W.D. Mich. 1979), aff d as modified, 653 F.2d 277 (6th Cir. 1981), cert denied 454 U.S. 1124 (1981), controlling the Article 13 treaty right shall be used as interpretive authority to determine the scope of the application of 26 U.S.C. § 7873.

(b) The scope of this chapter is strictly limited to the Tribe acting in its capacity as a tribal government. This chapter is not intended to, and does not, create any enforceable rights against the Tribe as a government for monetary damages by Tribal members or third party rights against the Tribe for monetary damages.

§ 404. Authority. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) Statutory. 26 U.S.C. § 7873; S. Rep. No. 445, 100th Cong., 2nd Sess. (1988); H. Rep. No. 312 (part 2) 100th Cong., 2nd Session (1988); 25 U.S.C. § 7871; 25 U.S.C. § 476; and 25 U.S.C. § 450 et seq.

(b) Non-statutory. Notice 89-43, 1989-121.R.B. 80, Internal Revenue Manuel Handbook No. 4231 Section 533; U.S. v. Michigan, supra; Employment Tax Guide Indian Tribal Governments, Publication of IRS 1-877-829-5500 (ETGITG) (www.irs.gov/tribes last visited on April 18, 2006); FAQs regarding IRC Section 7873 (Fishing Rights) http://www.irs.gov/govt/tribes/article/0,,id=102508,00.html last visited on April 18, 2006); Hall v. Commissioner of Internal Revenue, T.C.

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Memo. 1998-336, 1998 WL 646609; Warbus v. Commissioner of Internal Revenue, 110 T.C. 279 (1998); "American Indian Law Meets the Internal Revenue Code: Warbus v. Commissioner," 74 N. D. L. Rev. 691 (1998); IRS Priv. Ltr. Rul. 200511006 (Nov. 23, 2004); IRS Tech. Adv. Mem. 9747004 (Jul. 25, 1997).

(c) For purposes of this chapter, the above authority shall control interpretations of all factual patterns that may arise in the implementation and application of this chapter by departments of the Tribe. Departments of the Tribe shall refer to the above authorities and shall consult with the Tribe's Legal Department as necessary or appropriate in implementing and applying this chapter.

§ 405. Definitions. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) "Fishing rights-related activity" means any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of the Tribe, or to selling fish, if substantially all the harvesting was performed by members of the Tribe.

(b) "Income" means the weekly wages paid by the Tribe to an employee of the "Qualified Indian entity" under 26 U.S.C. § 7873.

(c) "Qualified Indian entity," means the Grand Traverse Band of Ottawa and Chippewa Indians acting as a governmental entity as stated in § 408 of this chapter.

(d) "Recognized fishing rights" means the Article 13 treaty right in the Treaty of Washington and recognized in U.S. v. Michigan, supra.

(e) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 406. Federal Tax Exemption. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

26 U.S.C. § 7873(a)(1) provides an exemption from federal income tax on income, including wages, derived by members of the Tribe in the exercise of a fishing rights-related activity of the Tribe. 26 U.S.C. § 7873(a)(2) provides an exemption from federal employment taxes, including FICA taxes, on wages paid to members of the Tribe for services performed in a fishing rights-related activity of the Tribe.

§ 407. "Physical Activity" Test. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

"Fishing rights-related activity" includes any part of the physical acts of harvesting, processing, transporting, or selling fish.

(a) Persons eligible under this test include the following:

(1) Fishers, processors (including smoking), and transporters.

(2) Hatchery workers.

(b) Employees of the Tribe in the category denominated in this § 407 shall be eligible to make percentage allocation in support of the "directly related to" test and follow the procedure outlined in § 409 requiring consultation with the GTB Human Resources Department for purposes of claiming the exemption under the provisions of 26 U.S.C. § 7873.

§ 408. "Governmental and Regulatory Support" Test. [History: Tribal Act #06-24.1651, enacted by

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Tribal Council on April 26, 2006; and amended by Tribal Council in Special Session on October 29, 2008.]

"Fishing rights-related activity" also includes the Tribal governmental activities related to the overall structure of treaty-protected behavior that the Tribe, as a government, engages in to protect, manage, regulate and implement the treaty-protected fishing rights and from which Tribal members, or members of other Tribes under Article 13 of the 1836 Treaty of Washington, whether as Tribal governmental employees or Tribal Councilors, derive income. See: S. Rep. No. 100 at 475 (1988) ("In the case of...a qualified Indian entity, the bill exempts from income, social security, and other tax, only that income "derived" from fishing rights-related activities."). This is the "governmental and regulatory support" test for coverage of individuals involved in these activities.

(a) Persons eligible under this test include the following:

(1) Conservation officers.

(2) Environmental technicians.

(3) Fishers biologist.

(4) Fishers technicians.

(5) Fishery habitat policy analysts.

(6) Water quality biologist.

(7) Habitat inventory and assessment technician.

(8) Enforcement staff.

(9) Tribal Court personnel.

(10) Support staff, i.e., secretary, accounting, payroll.

(11) Legislative analyst.

(12) Information and education services.

(13) Data analyst.

(14) Policy analyst.

(15) Public information staff.

(16) Air/Water/Earth Quality Specialist.

(17) Natural Resources Department Manager (NRD).

(18) NRD Administrative Assistant/Program Director.

(b) In general for purposes of this chapter, eligible persons under this test include all employees of the qualified Indian entity/Tribe who participate in the following Tribal categorical governmental functions in support of "Treaty-related activities,..." includes the following:

(1) Regulatory/Legal Department.

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(2) Conservation officers.

(3) Environmental services.

(4) Judicial Services.

(5) Tribal Council.

(A) Executive Functions.

(B) Legislative Functions.

(6) Natural Resources and Environmental Committee.

(7) Inter-Tribal Regulatory Bodies created at the direction of the Consent Decree (Chippewa Ottawa Resource Authority) or at the behest of intertribal initiatives.

(c) Employees of the Tribe in the category denominated in this § 408 shall be eligible to make percentage allocation in support of the "fishing rights-related activities" test and follow the procedure outlined in § 409 requiring consultation with the GTB Human Resources Department for purposes of claiming the exemption under the provisions of 26 U.S.C. § 7873.

§ 409. Procedures for Allocation and Verification. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) The GTB Human Resources Manager, in consultation with the GTB Natural Resources Department Manager, shall write a position description of all positions covered, directly or indirectly, by the reach of 26 U.S.C. § 7873 under the tests stated herein in §§ 407 and 408.

(b) The employee covered by the reach of 26 U.S.C. § 7873 and §§ 407 and 408 of this chapter shall have the option of concurring with the language of the position description, for the sole purpose of the application of 26 U.S.C. § 7873, or registering a non-concurrence.

(c) Each employee shall be required to file an employee allocation assertion made by the individual employee for those work duties covered by 26 U.S.C. § 7873 consistent with the Human Resources position description for his or her position.

(d) If the employee voluntarily concurs with the position description, such concurrence shall be deemed consent to an explicit allocation to be made by the GTB Human Resources Department, in consultation with the GTB Natural Resources Department and the GTB Legal Department, on the percentage of time eligible for an exemption under 26 U.S.C. § 7873.

(e) If the employee does not voluntarily concur with the position description and allocation made by the GTB Human Resources Department, then the GTB Accounting Department shall treat the position as subject to federal income taxation and federal withholding of FICA and FUTA. The GTB Accounting Department shall then issue tax forms consistent with IRS Notice 89-34 for the individual employee to file an independent claim of exemption under 26 U.S.C. § 7873.

(f) The GTB Human Resources Department shall verify the employee allocation solely for the purpose of compliance with the verification requirements of 26 U.S.C. § 7873(c)(1); as interpreted by the IRS in Internal Revenue Manual Handbook No. 4231 § 553(3)(d) ("Verification of time allocated... His employer should verify the percentage of time he engages in fishing rights-related activities of his tribe. The employer should also indicate that the employer is maintaining records to support the allocation.")

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§ 410. Records Maintenance. [History: Tribal Act #06-24.1651, enacted by Tribal Council on April 26, 2006.]

(a) The GTB Accounting Department shall maintain records consistent with this chapter.

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GRAND TRAVERSE BAND CODE

Title 9

CRIMINAL OFFENSES

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Chapter 1
Criminal Code

§ 101. Jurisdiction. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988. As amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992.]

(a) Definition. The criminal jurisdiction of the Grand Traverse Band (also referred to in this code as "GTB" and/or "the Band") is its power to prohibit certain conduct, as a matter of public policy, within its territory.

(b) Power Implemented. That power is exercised by enacting this code and by punishing people who violate its laws.

(c) Territorial Extent. The criminal jurisdiction of the Grand Traverse Band shall extend to:

(1) All lands within the Grand Traverse Band Reservation, whether held in trust or privately-owned;

(2) All trust land held by the United States for the benefit of the Grand Traverse Band;

(3) Any other Tribal lands; and

(4) The activities of Band members when exercising treaty hunting and fishing rights wherever such activity occurs.

(d) Persons Under GTB Criminal Jurisdiction. The criminal jurisdiction of the Band shall extend to:

(1) All members of the Band; and

(2) All other Indians present within the areas described in § 101(c) of this code.

The criminal jurisdiction of the Band shall only extend to adults. However, upon motion of the Tribal Prosecutor, the judge may, in his/her discretion, try a minor as an adult.

Comment: The Grand Traverse Band, as a sovereign Tribal entity, possesses the power to regulate conduct within its territory. The criminal jurisdiction of the Band, its power to prohibit certain conduct within its territory and to punish those who violate its laws, has been limited by the United States Congress and the United States Supreme Court in the following ways:

(1) Major Crimes Act: The Major Crimes Act (MCA), 18 U.S.C. § 1153, originally enacted by the U.S. Congress in 1885, gives the federal government jurisdiction over certain enumerated "major crimes" committed by one Indian against the person or property of another in Indian country. These crimes include murder, manslaughter, kidnapping, rape, statutory rape, involuntary sodomy, assault with intent to commit rape, incest, assault with intent to commit murder, assault with a deadly weapon, assault resulting in serious bodily injury, arson, burglary, and robbery. The MCA has backfired to a large extent, because many of these crimes committed in Indian country now go unpunished. The federal government has not devoted adequate resources to enforce the MCA, so federal prosecutors are reluctant to prosecute crimes that fall under MCA. Indian tribes retain concurrent jurisdiction over these crimes. These "Major crimes" are thus included in this code to insure that those who commit major crimes in GTB territory are not allowed to go unpunished.

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(2) Indian Civil Rights Act (ICRA): The ICRA, 25 U.S.C. § 1302, was enacted by Congress in 1968. It makes many of the protections included in the United States Constitution's Bill of Rights applicable to the conduct of Indian tribes. It also limits the punishment that an Indian tribe may impose to a one year jail term or to a fine of $5,000, or both.

(3) Non-Indians: Under Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978), an Indian tribe cannot try a non-Indian in tribal court [for criminal matters]. This code, therefore, states that the Band's criminal jurisdiction shall only be exercised over Band members and other Indians present within the Band's territory.

§ 101(c) is drafted broadly to include all of the Band's territory within its criminal jurisdiction. It is no longer debatable that the Band can exercise jurisdiction over its members when exercising treaty hunting and fishing rights, regardless of whether such activity occurs within "Indian country."

§ 102. Definitions. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988. As amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992.]

For purposes of this Criminal Code:

(a) Indian. "Indian" means any person who is:

(1) A member of the Grand Traverse Band;

(2) A member of any federally-recognized Indian tribe, band, or group; or

(3) A person of Indian blood who is generally considered to be American Indian by the Grand Traverse Band community.

(b) Mental State: Malice. A person acts "maliciously" or "with malice" when that person consciously formulates a plan to injure the person or property of another and takes steps to carry out such a plan.

(c) Mental State: Intent. A person acts "intentionally" or "with intent" with respect to conduct when it is that person's conscious desire to engage in certain conduct.

(d) Mental State: Knowledge. A person acts "knowingly" or "with knowledge" when that person is aware of his/her actions and the probable consequences of such actions.

(e) Mental State: Wanton or Reckless. A person acts "wantonly" or "recklessly" when that person is aware, or should be aware, that certain conduct will endanger the health, safety, or property of others but persists in engaging in the conduct despite the risks.

(f) Mental State: Negligent. A person acts "negligently" or "with neglect" when that person acts in a manner that endangers the safety or property of others without exercising the care that a reasonably prudent person would exercise under the same or similar circumstances.

(g) Minor. A "minor" is any person under 18 years of age.

(h) Adult. For purposes of criminal jurisdiction, an "adult" is any person 18 years of age or older.

(i) Motor Vehicle. "Motor vehicle" means any car, truck, motorcycle, or other motor-operated vehicle.

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Comment: The United States Congress has clarified that tribal governments may exercise criminal jurisdiction over non-member Indians on tribal lands. "Indian" is therefore defined as any member of the Grand Traverse Band or any federally-recognized tribe and any person of Indian blood who is generally considered to be an American Indian by the community.

This Chapter of the code also includes definitions of five different mental states. One of these mental states is an essential element of any given crime.

§ 103. Requirements for Conviction. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988. As amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992; and amended by Tribal Council motion at a Tribal Council Special Session on June 26, 2019.]

(a) Culpability. A person shall not be guilty of an offense unless that person acted intentionally, maliciously, knowingly, recklessly, or negligently as the law requires with respect to each material element of the offense. Provided that any material element of an offense that does not require a mental state may be established by proving that the person participated in the prohibited conduct regardless of his/her state of mind.

(b) Proof. No person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt.

(c) Intoxication.

(1) Intoxication is not a defense unless it negates an element of the offense.

(2) Self-induced intoxication cannot negate the element of recklessness.

(d) Statute of Limitations. Prosecution for any criminal offense must commence within three years after the offense is discovered or reasonably could have been discovered.

(1) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(2) No time during which prosecution of the same person for the same conduct is pending in the Tribal Court or a federal court is a part of a limitation of time prescribed in this chapter.

(3) The period of limitation does not run during any time when the defendant is continuously absent from GTB's jurisdiction after the offense is committed. This provision shall not extend the period of limitation prescribed by this chapter by more than three years, but shall not be construed to limit the prosecution of a defendant who has been timely charged and who has not been arrested due to his or her absence from GTB's jurisdiction.

(4) No retroactive effect. An amendment to this Subsection (d) that alters the length of the limitation period does not extend the statute of limitations on any action or conduct completed prior to the date of the amendment.

(e) Multiple Counts. When the conduct of a defendant establishes the commission of more than one offense, the defendant may be prosecuted for each such offense, unless:

(1) One offense consists only of an attempt to commit the other;

(2) Inconsistent findings of fact are required to establish commission of the offenses; or

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(3) The offenses differ only in that one prohibits a designated kind of conduct generally, and the other prohibits a specific instance of such conduct.

Comment: Section 103(a) states that a person cannot be guilty of an offense unless that person acted with the requisite mental state, if a mental state is specified in the offense. For instance, to be convicted of battery it must be shown that a person intentionally struck another. If a person inadvertently bumps into another, he/she cannot be convicted of battery, because he/she did not act with intent.

Section 103(b) states that in order to convict a person of an offense, each element must be proved beyond a reasonable doubt. Beyond a reasonable doubt means more than a mere likelihood. It means that the evidence as presented makes it virtually impossible for any other conclusion to be reached. Each element must be proved beyond a reasonable doubt. For instance, in order to convict a person of improper influence of an official under § 107(h)(2), it must be proved beyond a reasonable doubt that the person: (1) threatened harm to a tribal official, and (2) did so with the intent of influencing such person's official actions.

Section 103(c) makes clear that intoxication in itself is not a viable defense. However, under certain circumstances it may negate an element of the offense, such as intent or knowledge. However, self-induced intoxication can never negate the element of recklessness. A person can act recklessly whether or not that person is aware of what he/she is doing.

§ 104. Affirmative Defenses. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988. As amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992.]

(a) Duress. It is an affirmative defense that the defendant, engaged in the conduct charged to constitute an offense, was coerced against his/her will by the use of, or threatened use of, unlawful force against his/her person or the person of another. The coercion must be such that a person of reasonable firmness would be unable to resist.

(b) Protection of Self, Property, or Other Person. The use of reasonable force toward another person is justified and is an affirmative defense, if and only if:

(1) The force is directed toward one who is using unlawful force; and

(2) The person using such force reasonably believes the use of force is necessary for his/her protection or that of a third person.

The use of reasonable force toward another person is justified and is an affirmative defense if used to prevent the unlawful entry into the dwelling of the person asserting the defense, or into the dwelling of another, or to prevent the unlawful carrying away of personal property.

(c) Alibi. The defense of alibi, that the accused was somewhere else when the crime was committed, shall be treated procedurally as an affirmative defense.

(d) Procedures for Raising Affirmative Defense. The procedures for raising and pleading affirmative defenses shall be specified by Court Rule.

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Comment: An affirmative defense does not negate an element of the crime, but raises additional circumstances that provide justification for the actions, relieving the defendant of culpability, so that he/she is not held criminally liable. For instance, if a person raises the affirmative defense of duress when being accused of battery, that person does not deny that he/she intentionally struck another. But, that person may state, for example, that he/she was coerced into doing so by the threats of a third person.

Similarly, if a person raises the defense of protection of self, property, or other person, to a charge of battery, that person is not denying that he/she intentionally struck another. However, that person is stating that his/her actions were necessary to protect himself/herself or another, and therefore such actions are justified.

§ 105. Counsel. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988. As amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992.]

(a) Right to Counsel. Any person accused of an offense under this code may represent himself before the Tribal Court, or may be represented, at his/her own expense, by a person duly licensed to practice before the Tribal Court.

(b) Persons Licensed to Practice in Tribal Court. An attorney admitted to practice law in any state may be licensed to practice in GTB Courts upon:

(1) Payment of an annual fee, as specified by Court Rule; provided that the fee may be waived if the attorney is providing pro bono services;

(2) Certification to the Tribal Court that he/she has read the Court Rules; and

(3) Taking of an oath to uphold the Constitution and laws of the Grand Traverse Band of Ottawa and Chippewa Indians, maintaining due respect for the Tribal Court, and employing, in his/her conduct and duties, the highest degree of ethical and moral standards with which the legal profession is charged. The Tribal Court Rules may also set out a procedure for licensing non-attorney Tribal members to practice before the Tribal Court.

§ 106. Sentencing. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988; as amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992; as amended by Tribal Act #03-21.1200, enacted by Tribal Council on March 19, 2003.]

(a) Types of Sentences. The Court may suspend the imposition of sentence of a person who has been convicted of a crime, may order an appropriate rehabilitative treatment, may order the offender to be committed in lieu of sentence to a hospital or other institution for medical, psychiatric, or other rehabilitative treatment, or may sentence him/her as follows:

(1) To perform community service work;

(2) To pay restitution or provide restitutive services to the injured parties;

(3) To be placed on probation;

(4) To imprisonment for a definite period up to the term authorized by law; and/or

(5) To fine and probation, or fine and imprisonment.

(b) Delayed Sentencing. The judge may delay final sentencing for a period up to one year, and order community service and/or rehabilitative services during that time. At the end of the specified time,

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the judge may, if appropriate, dismiss the charges and expunge them from the Court record.

(c) Taking Jurisdiction over Family or Household. When an offense has been committed against the family under § 107(k) of this Title, the Court may take jurisdiction over the family or household, make child/victims wards of the Court, and issue such orders as are necessary to ensure the safety and welfare of family members.

(d) Probation. The Court shall have the discretion in any case, expect where prohibited by this code or by Tribal ordinance, to suspend all or any part of an offender's sentence and release the defendant on probation. The offender shall sign a probationary pledge, the conditions and limitations of which shall be clearly set forth by the Court.

(e) Victim's Impact Statement. Prior to sentencing, the Court shall inform the victim(s) of their right to submit a written statement to the Court detailing the physical, material, and emotional damages that they suffered as a result of the offender's actions. The judge, in his/her discretion, may allow oral testimony to be taken regarding such damages, in addition to, or in lieu of, the written statement.

(f) Sentencing Considerations. Before imposing sentence, the Court shall take into consideration the offender's prior record, family circumstances, employment status, and any other circumstance which will aid in imposing a just and fair sentence, paying particular attention to the victim's impact statement described above. Restitution and community service work should generally be preferred over incarceration. A judge should only order incarceration when the Court determines that it is necessary for the safety of the community, or when the Court determines that the offender is unlikely to cooperate in providing restitution or performing community service work, or when the offense committed is such that incarceration is the only viable punishment.

Comment: The Tribal Court Judge has considerable discretion in fashioning an appropriate sentence for a person convicted of an offense. However, as was noted above, the maximum jail term and fine that a Tribal Judge may sentence a criminal to is one year or $5,000, or both.

Keeping someone in jail is very expensive, and thus drains Tribal resources. Incarceration has not been proven to have significant rehabilitative value. Therefore, it is recommended that other forms of punishment, such as community service work, which will benefit the Tribe, or restitution to help the victim recover from his/her injuries, be preferred over incarceration. It is suggested that incarceration be utilized when the circumstances, such as the violent propensity of the offender, make it the only viable alternative.

The ICRA gives the accused a right to a jury trial any time imprisonment is a possibility. Section 106(g) allows the Court, prior to trial, to rule that imprisonment will be considered in the case. In all other cases, imprisonment will not be a potential punishment and thus the accused will not have the right to a jury trial.

§ 107. Offenses. [History: The Criminal Code was adopted by the Tribal Council on April 20, 1988; as amended by Tribal Act #92-10.78, enacted by Tribal Council on October 20, 1992; as amended by Tribal Act #00-18.883, adopted by Tribal Council in Special Session on August 10, 2000; as amended by Tribal Council in Special Session on February 27, 2001; as amended by Tribal Act #04-22.1389, enacted by Tribal Council on May 14, 2004; as amended by Tribal Act #04-22.1465, enacted by Tribal Council on November 24, 2004; as amended by Tribal Act #04-22.1467, enacted by Tribal Council on December 15, 2004; as amended by Tribal Act #07-25.1863, enacted by Tribal Council in Special Session on November 28, 2007; as amended by Tribal Act #10-28.2207, enacted by Tribal Council on July 21, 2010; as amended by Tribal Council Resolution #19-37.3091 on June 29, 2019,

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which implemented Tribal Council Resolution #18-36.3047[6], adopted at a Tribal Council Regular Session on April 17, 2019.]

(a) Contempt of Court and Perjury.

(1) Contempt of Court.

(A) Offense. Intentional and unjustifiable behavior by any person, which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding of the Court, or which obstructs, or interferes with the administration of justice by the Court, including disobedience or resistance to, or interference with, any lawful summons, subpoena, process, order, rule, term of probation, sentence, decree, or command of the Court, including failure to appear for a court date, shall constitute contempt of court.

(B) Contempt Committed in the Presence of the Court. When contempt of court is committed in the presence of the Court it may be punished summarily by the Court. In such case, an order shall be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment.

(C) Contempt Committed Out of the Presence of the Court. When it appears to the Court that a contempt has been committed out of the presence of the Court, the Court may issue a summons to the person so charged directing him/her to appear at a time and place designated for hearing on the matter.

(D) Sentence. A person found guilty of contempt of court may be sentenced to a jail term not to exceed 30 days, or to a fine not to exceed $1,000, or to both. In addition, if a person is charged with contempt for jumping bail, the Court may order forfeiture of the person's bail.

(2) Perjury.

(A) Offense. A person who knowingly gives false testimony when under oath in a proceeding before the Tribal Court shall be guilty of perjury.

(B) Sentence. A person convicted of perjury may be sentenced to a jail term not to exceed six months or to a fine not to exceed $5,000, or to both.

(b) Scheming and Planning Offenses.

(1) Solicitation.

(A) Offense. A person commits solicitation if, with intent that another person engage in illegal conduct, he/she commands, entreats, induces or otherwise endeavors to persuade such person to engage in illegal conduct.

(B) Affirmative Defense. It is an affirmative defense to a charge of solicitation that the defendant completely renounced his/her criminal intent before commission of the crime, and made a reasonable attempt to prevent the solicited conduct.

(C) Sentence. A person convicted of solicitation shall be subject to the same punishment as that specified in this code for the completed offense.

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6. This resolution set forth a referendum which was approved by a majority of the registered voters on June 11, 2019.

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(2) Conspiracy.

(A) Offense. A person commits conspiracy if that person agrees with one or more persons, with the intent to promote or facilitate the commission of an offense, that at least one of them will engage in conduct constituting the offense, and one of the parties commits an overt act in furtherance of the agreement.

(B) Affirmative Defense. It is an affirmative defense to a charge of conspiracy that the defendant completely and voluntarily renounced his/her criminal intent before commission of the crime, and made a reasonable attempt to prevent the illegal action.

(C) Sentence. A person convicted of conspiracy shall be subject to the same punishment as that specified in this code for the completed offense.

(3) Attempt.

(A) Offense. A person commits an attempt, with respect to any of the enumerated offenses in this code, if that person, acting with the intent to commit the offense, takes a substantial step toward the commission of the crime, and does not retract his/her action, but is foiled by circumstances beyond his/her control.

(B) Sentence. A person convicted of an attempt shall be subject to the same punishment as that specified in this code for the completed offense.

(4) Contributing to the Delinquency of a Minor.

(A) Offense. Any person who aids, abets, or encourages any minor to commit an act that would be an offense under this code, if committed by an adult, shall be guilty of contributing to the delinquency of a minor.

(B) Sentence. A person convicted of contributing to the delinquency of a minor may be sentenced to a jail term not to exceed 60 days, or to a fine not to exceed on $1,000, or to both.

(5) Aiding and Abetting.

(A) Offense. A person commits an offense if he/she knowingly aids or abets another person in the commission or furtherance of a crime.

(B) Sentence. A person found guilty of aiding and abetting will be subject to the same sentence as provided for the underlying crime.

Comment: A person cannot be found guilty of aiding and abetting if the principal offender is found not guilty of the underlying crime.

(c) Offenses Against the Person.

(1) Assault.

(A) Offense. A person commits assault if that person, by any unlawful act, threat, or menacing conduct, causes another person to reasonably believe that the other person is in immediate danger of physical harm.

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(B) Sentence. A person convicted of assault may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $1,000, or to both.

(2) Assault with a Weapon.

(A) Offense. A person commits assault with a weapon if that person, through the use, or threatened use, of a weapon, causes another person to reasonably believe that he/she is in immediate danger of physical harm.

(B) Sentence. A person convicted of assault with a weapon may be sentenced to a jail term not to exceed one year, or to a fine not to exceed $5,000, or to both.

(3) Battery.

(A) Offense. A person who intentionally strikes or offensively touches the person of another commits the offense of battery.

(B) Sentence. A person convicted of battery may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

(4) (Reserved)

(5) (Reserved)

(6) Unlawful Imprisonment.

(A) Offense. A person commits unlawful imprisonment if, without lawful authority, that person intentionally removes, detains, restrains, or confines the person of another without his/her consent.

(B) Sentence. A person convicted of unlawful imprisonment may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

(7) Harassment.

(A) Offense. A person who verbally harasses another, including obscene or threatening phone calls, with the intent of causing that person physical or emotional harm, shall be guilty of an offense.

(B) Sentence. A person convicted of harassment may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000, or to both.

(d) Weapons and Explosives.

(1) Carrying of a Deadly Weapon without a License.

(A) Offense. A person who carries a deadly weapon without being licensed to do so by the Grand Traverse Band or by the State of Michigan commits an offense.

(B) Sentence. A person convicted of unlawful carrying of a deadly weapon without a license may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000, or to both. The judge may also order that the weapon be impounded.

(2) Unlawful Use of a Weapon.

(A) Offense. A person commits unlawful use of a weapon if that person:

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(i) Discharges a firearm in the proximity of a building or vehicle so as to knowingly or recklessly endanger a person or property;

(ii) Carries a firearm while intoxicated;

(iii) Handles or uses a firearm or other weapon so as to knowingly or recklessly endanger the safety of another; or

(iv) Carries a firearm or other weapon with unlawful intent.

(B) Sentence. A person convicted of unlawful use of a weapon may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $2,000, or to both. The judge may also order that the weapon be impounded.

(3) Dangerous Use of Explosives.

(A) Offense. A person commits dangerous use of explosives if, with intent to injure, intimidate or terrify another, or to damage another's property, that person maliciously explodes, attempts to explode or places any explosive anywhere within territorial jurisdiction of the Grand Traverse Band.

(B) Sentence. A person convicted of dangerous use of explosives may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed $5,000, or to both.

(C) In addition to, or in lieu of, the punishments set out above, the Court may order the offender to repair any property damaged by his/her actions or to pay the costs of such repairs to the injured party.

(4) Negligent Use of Explosives.

(A) Offense. A person commits negligent use of explosives if that person negligently explodes, attempts to explode or places any explosive in such a manner as to result in injury to another or to the property of another, or by such action increases the probability of such injury.

(B) Sentence. A person convicted of negligent use of explosives may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $3,000, or to both.

(C) In addition to, or in lieu of, the punishments set out above, the Court may order the offender to repair any property damaged by his/her actions or to pay the costs of such repairs to the injured party.

(e) Theft and Related Crimes.

(1) Theft of Property.

(A) Offense. A person commits theft of property if, without lawful authority, that person intentionally or knowingly:

(i) Controls property of another with the intent to permanently deprive the owner, or person in lawful possession, of such property;

(ii) Obtains property of another by means of any material misrepresentation with intent to permanently deprive the owner, or person in lawful possession, of such property; or

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(iii) Comes into control of lost, mislaid or misdelivered property under circumstances providing means of inquiry as to the true owner and appropriates such property to himself/herself without making reasonable efforts to notify the true owner.

(B) Sentence. A person convicted of theft of property may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(C) Return of Property. When a person is convicted of theft, the Court shall confiscate the stolen property and return it to its rightful owner. If the property has been lost or destroyed, the Court may require the offender to compensate the rightful owner for the value of the stolen property in addition to, or in lieu of, the sentence set out above.

(2) Robbery.

(A) Offense. A person commits robbery if that person threatens another with bodily harm, through the use of force or a weapon, in order to obtain property that is in the lawful custody of the person being threatened.

(B) Sentence. A person convicted of robbery may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

(3) Theft of Services.

(A) Offense. A person commits theft of services if, without lawful authority, that person obtains services which are available only for compensation with the intent of avoiding payment for such services.

(B) Sentence. A person convicted of theft of services may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $2,000, or to both.

(C) Payment for Services. The Court may require the offender to compensate the victim for the services wrongfully obtained in addition to, or in lieu of, the sentence set out above.

(4) Unauthorized Use of a Vehicle.

(A) Offense. A person commits an offense if that person intentionally or knowingly operates, or tampers with, another's automobile, motorcycle, motorboat or other motor-operated vehicle, without the consent of the owner.

(B) Sentence. A person convicted of unauthorized use of a vehicle may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000, or to both.

(5) Receiving Stolen Property.

(A) Offense. A person commits an offense if that person purchases, receives, conceals, or aids in concealing any property of another knowing, or having reason to know, that such property was obtained by theft or any other means declared by law to be unlawful.

(B) Sentence. A person convicted of receiving stolen property may be sentenced to a jail term not to exceed 180 days or to pay a fine not to exceed $5,000, or to both.

(6) Embezzlement and Theft from Grand Traverse Band Organizations.

(A) Offense. A person commits Embezzlement and theft from Grand Traverse Band organizations if that person embezzles, steals, knowingly converts to his/her use or the use

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of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Grand Traverse Band organization or entrusted to the custody or care of any officer, employee, or agent of a Grand Traverse Band organization; or

(B) Whoever, knowing any such moneys, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to his/her use or the use of another.

(C) Sentence.

(i) An Indian convicted of Embezzlement and theft from Grand Traverse Band organizations shall be fined not more than $5,000, or imprisoned for not more than one year, or both; but if the value of such property does not exceed the sum of $100, he/she shall be fined not more than $1,000, or imprisoned not more than 180 days, or both.

(ii) A non-Indian found responsible for embezzlement or theft from Grand Traverse Band Organizations shall be responsible for a civil infraction and subject to fines not to exceed $5,000 and/or exclusion from the lands of the Grand Traverse Band of Ottawa and Chippewa Indians.

(7) Theft from GTB Gaming Enterprises.

(A) Offense. A person commits theft from GTB gaming enterprises if that person abstracts, purloins, willfully misapplies or takes and carries away with intent to steal any money or other property belonging to a gaming enterprise operated by the Grand Traverse Band of Ottawa and Chippewa Indians, or whoever, knowing any such money or other property to have been so abstracted, purloined, willfully misapplied or taken and carried away with intent to be stolen, receives, conceals, or retains the same with intent to convert it to his/her use or the use of another.

(B) Sentence.

(i) An Indian convicted of theft from a GTB gaming enterprise shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

(ii) A non-Indian found responsible for theft from a GTB gaming enterprise shall be responsible for a civil infraction and subject to fines not to exceed $5,000 and/or exclusion from the lands of the Grand Traverse Band of Ottawa and Chippewa Indians.

(8) Theft by Officers or Employees of GTB Gaming Enterprises.

(A) Offense. A person being an officer or employee of a GTB gaming enterprise commits theft by officers or employees of GTB gaming enterprises if he/she embezzles, abstracts, purloins, willfully misapplies or takes and carries away with intent to steal any moneys, funds, assets or other property of such enterprise, or whoever, knowing any such moneys, funds, assets or other property to have been so embezzled, abstracted, purloined, willfully misapplied or taken away with the intent to be stolen, receives, conceals, or retains the same with intent to convert to his/her use or the use of another.

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(B) Sentence.

(i) An Indian convicted of theft by officers or employees of GTB gaming establishments shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

(ii) A non-Indian found responsible for theft by officers of employees of GTB gaming establishment shall be responsible for a civil infraction and subject to fines not to exceed $5,000 and/or exclusion from the lands of the Grand Traverse Band of Ottawa and Chippewa Indians.

(f) Burglary and Arson.

(1) Burglary.

(A) Offense. A person commits burglary if that person enters into a building, boat, or motor vehicle belonging to another with the intent of committing an offense therein.

(B) Sentence. A person convicted of burglary may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $1,000, or to both.

(2) Arson.

(A) Offense. A person commits arson if that person knowingly sets fire to the building or property of another, or sets fire to his/her own property with the intent of collecting insurance benefits, or with the intent of negatively impacting a family member or any person who has a rightful interest in the property.

(B) Sentence. A person convicted of arson may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

(g) Forgery and Related Crimes.

(1) Forgery.

(A) Offense. A person commits forgery if, with intent to defraud, that person:

(i) Falsely makes, completes, or alters a written instrument; or

(ii) Offers or presents a forged instrument knowing such instrument to be forged.

(2) Obtaining a Signature by Deception.

(A) Offense. A person commits an offense if, with intent to defraud, that person obtains the signature of another person on a written instrument by knowingly misrepresenting or omitting any material fact relevant to the instrument or transaction.

(B) Sentence. A person who is convicted of obtaining a signature by deception may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $4,000 or to both.

(3) Criminal Impersonation.

(A) Offense. A person commits criminal impersonation if that person:

(i) Assumes a false identity with the intent to defraud another; or

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(ii) Pretends to be a representative of some person or organization with the intent to defraud.

(B) Sentence. A person convicted of criminal impersonation may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(h) Bribery and Related Crimes.

(1) Bribery of Officials.

(A) Offense. A person commits the offense of bribery if that person:

(i) Offers, confers, or agrees to confer any benefit upon a Tribal official, judge or employee with the intention of influencing such person's vote, opinion, judgment, exercise of discretion or other action in his/her official capacity; or

(ii) As a Tribal official, judge, or employee, solicits, accepts or agrees to accept any benefit upon an agreement or understanding that his/her official actions may be thereby influenced.

(B) Sentence. A person convicted of bribery may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(2) Improper Influence of Officials.

(A) Offense. A person commits improper influence of an official if that person threatens harm to any Tribal official, judge or employee with the intent of influencing such person's official actions.

(B) Sentence. A person convicted of improper influence of an official may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(3) Abuse of Office.

(A) Offense. A person commits abuse of office if that person acts or purports to act in an official capacity and:

(i) Subjects another to arrest, detention, search or seizure without just and lawful cause; or

(ii) Maliciously denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity.

(B) Sentence. A person convicted of abuse of office may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $3,000, or to both.

(i) Obstruction of Tribal Administration.

(1) Resisting or Obstructing an Officer of the Grand Traverse Band or any Other Law Enforcement Officer.

(A) Offense. A person commits an offense if that person intentionally or knowingly obstructs, impairs or hinders:

(i) Any officer of the Grand Traverse Band in the lawful exercise of his/her duties;

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(ii) Any duly authorized person serving or attempting to serve or execute process, or any rule or order of the courts of the Grand Traverse Band;

(iii) Any judge or other court personnel of the Grand Traverse Band, in the lawful exercise of his/her duties; or

(iv) Any other law enforcement official in the lawful exercise of his/her duties.

(B) Sentence. A person convicted of obstruction of Tribal administration may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(2) Escape from Lawful Custody.

(A) Offense. A person commits the offense of escape from lawful custody if that person escapes or attempts to escape from lawful custody or confinement.

(B) Sentence. A person convicted of escape from lawful custody may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(3) Helping a Person to Escape from Lawful Custody.

(A) Offense. A person commits an offense if that person helps or attempts to help a person escape from lawful custody or confinement.

(B) Sentence. A person convicted of helping a person to escape from lawful custody may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(4) Tampering with a Public Record.

(A) Offense. A person commits tampering with a public record if that person intentionally or knowingly and with proper authority:

(i) Makes or completes a written instrument which purports to be a public record or true copy thereof or alters a written instrument which is a public record or true copy thereof;

(ii) Presents or uses a written instrument which is or purports to be a public record or a copy thereof, knowing that it has been falsely made, completed or altered, with intent that it be taken as genuine;

(iii) Offers for recording, registration or filing in a Tribal office or agency a written statement knowing that it has been falsely made, completed or altered or that it contains a false statement or information; or

(iv) Knowingly destroys, conceals, removes or otherwise impairs the availability of any public record.

(B) Public Records. Public records mean all official books, papers, written instruments or records created, issued, received or kept by any Tribal office, branch or division.

(C) Sentence. A person convicted of tampering with a public record may be sentenced to a jail term not to exceed 270 days or to a fine not to exceed $5,000, or to both.

(5) Malicious Criminal Prosecution.

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(A) Offense. A person commits malicious criminal prosecution if that person maliciously causes or attempts to cause a criminal charge to be prosecuted against an innocent person, knowing such person to be innocent.

(B) Sentence. A person convicted of malicious criminal prosecution may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(6) Interfering with an Election.

(A) Offense. A person commits an offense if that person, during the course of any election held by the Grand Traverse Band, knowingly:

(i) Attempts to influence the vote of any person or prevent a person from voting through the use or threatened use of force or violence;

(ii) Attempts to cast more than one vote in an election, or in any way interferes with the collection and counting of ballots.

(B) Sentence. A person convicted of interfering with an election may be sentenced to a jail term not to exceed 270 days or to a fine not to exceed $5,000, or to both.

(j) Criminal Damage to Property and Trespass.

(1) Vandalism.

(A) Offense. A person commits the offense of vandalism if that person intentionally or recklessly:

(i) Defaces or damages the personal or real property of another person; or

(ii) Defaces or damages the real or personal property of the Grand Traverse Band.

(B) Sentence. A person convicted of vandalism may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(C) Restitution. The judge may, in addition to, or in lieu of, the punishments set out above, order the offender to pay to the owner the repair or replacement costs of the damaged property or to perform work for the owner equal to the value of the damaged property.

(2) Littering and Burning of Trash.

(A) Offense. A person commits the offense of littering or burning of trash if that person burns trash, garbage, or refuse on Tribal lands or throws, places, drops or disposes of any litter in a place which is not a lawful waste disposal site or receptacle for the disposal of litter.

(B) Sentence. A person convicted of littering or burning trash may be sentenced to a jail term not to exceed 30 days or to a fine not to exceed $500, or to both.

(C) The judge may, in addition to, or in lieu of, the punishments set out above, order the offender to pick up litter or burned trash areas within Tribal lands, as a community service, for a time not to exceed 80 hours.

(3) Dumping of Hazardous Material.

(A) Offense. A person commits an offense if that person throws, places, drops or disposes of

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any hazardous material in a place which is not a lawful disposal site for such materials.

(B) Sentence. A person convicted of dumping hazardous materials may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both. In addition, the Court may order the person to remove the materials that have been dumped or to pay for the cost of such removal.

(4) Trespass.

(A) Offense. A person commits the offense of trespass if that person knowingly enters the property or dwelling of another with reason to know that the owner would not permit him/her to do so, or refuses to depart when requested to do so, or enters upon Tribal properties and refuses to depart when requested to do so by an officer or employee of the Grand Traverse Band.

(B) Sentence. A person convicted of trespass may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $2,000, or to both.

(k) Offenses Against the Family.

(1) Expansion of Court's Jurisdiction. The Court, in its discretion, may order the victim(s) or others touched by any of the offenses enumerated in this Section to undergo appropriate treatment(s) or participate in appropriate rehabilitative program(s).

(2) Abandonment of a Child.

(A) Offense. A parent, guardian or other person having legal custody of a child commits abandonment of a child if he/she intentionally or knowingly abandons a child under 18 years of age.

(B) Sentence. A person convicted of abandonment of a child may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $3,000, or to both.

(C) The judge may order the offender to undergo an appropriate rehabilitative program, in lieu of, or in addition to, the sentence set out above, if it appears from the totality of the circumstances that rehabilitative services could help the offender become a responsible parent.

(3) Failure to Support a Dependent.

(A) Offense. A person commits an offense if that person knowingly and persistently fails to provide food, shelter, clothing, medical attention, financial support or other necessary care which he/she is capable of providing to his/her child or other dependent.

(B) Sentence. A person convicted of failure to support a dependent may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $1,000, or to both.

(C) The judge may order the offender to undergo an appropriate rehabilitative program, in lieu of, or in addition to, the sentence set out above, if it appears from the totality of the circumstances that rehabilitative services could help the offender become a responsible parent.

(4) (Reserved)

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(5) (Reserved)

(6) Child Abuse.

(A) Offense. A person commits the offense of child abuse if that person intentionally, knowingly, or recklessly causes physical injury to a child in his/her care or custody.

(B) Sentence. A person who commits child abuse may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

(7) Spouse Abuse.

(A) Offense. A person commits an offense if that person intentionally, knowingly or recklessly causes physical injury to his/her spouse.

(B) Sentence. A person who commits spouse abuse may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both.

Comment: In keeping with § 103(e)(3), a person should not be prosecuted for both an offense under this Section and for sexual assault under § 107(c)(4), because sexual conduct with a foster child or stepchild and incest are specific types of sexual assaults.

Also, a person should not be prosecuted for both child abuse and battery, or spouse abuse and battery, because these are specific types of battery. A person who abuses a child, not in his/her care or custody, should not be prosecuted for battery.

(l) Riot and Related Offenses.

(1) Riot.

(A) Offense. A person commits riot if, with five or more other persons acting together, that person intentionally, knowingly or recklessly uses force or violence, or threatens to use force or violence, which disturbs the public peace.

(B) Sentence. A person who is convicted of riot may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $4,000, or to both.

(2) Disorderly Conduct.

(A) Offense. A person commits disorderly conduct if that person intentionally, knowingly or recklessly:

(i) Engages in fighting, or provokes a fight;

(ii) Makes any protracted commotion which prevents the transaction of the business of a lawful meeting, gathering or procession;

(iii) Makes loud and unreasonable noise; or

(iv) Engages in the consumption of alcohol out of doors with two or more persons without a Tribal permit.

(B) Sentence. A person who is convicted of disorderly conduct may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000, or to both.

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(3) Obstructing a Highway or other Public Thoroughfare.

(A) Offense. A person commits an offense if that person intentionally, knowingly or recklessly interferes, having no legal privilege to do, with the use of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard.

(B) Sentence. A person who is convicted of obstructing a highway or other public thoroughfare may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000, or to both.

(4) Creating False Alarm.

(A) Offense. A person commits an offense if that person reports a bombing, fire, crime or other emergency knowing such report to be false or baseless and knowing that:

(i) It will cause action by an official or voluntary agency organized to deal with emergencies;

(ii) It will place a person in fear of imminent serious bodily injury; or

(iii) It will prevent or interrupt the occupation of any building, room, place of assembly or other public place.

(B) Sentence. A person convicted of creating false alarm may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $2,000, or to both.

(5) Public Intoxication.

(A) Offense. A person commits public intoxication if that person appears in public in an inebriated state to the degree that he/she is unable to care for his/her own safety or is creating a public nuisance.

(B) Sentence. A person convicted of public intoxication may be sentenced to a jail term not to exceed 30 days or to a fine not to exceed $500, or to both.

(C) The judge may, in addition to, or in lieu of, the punishments set out above, order the offender to participate in an alcohol treatment program.

(6) Curfew.

(A) Offense. All minors must adhere to a curfew of 11:00 p.m. It shall be unlawful for any minor to appear in public after curfew. Furthermore, it shall be unlawful for anyone to allow a minor to violate the Tribal curfew.

(B) Sentence. A person who is found guilty of a curfew violation may be sentenced to a jail term not to exceed 30 days or to pay a fine not to exceed $500, or to both.

(7) Truancy.

(A) Offense. It shall be unlawful for any minor under the age of 16 to be absent from school without proper permission or excuse. Furthermore, it shall be unlawful for any person to allow any minor under the age of 16 to be absent from school without proper permission or excuse.

(B) Sentence. Any person found guilty of truancy may be sentenced in the Court's discretion

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to ensure regular school attendance.

(m) Traffic Offenses.

(1) Reckless Driving.

(A) Offense. A person commits reckless driving if that person operates a motor vehicle in a manner that he/she knows or should know, endangers the safety or property of others, including, but not limited to, driving on the wrong side of the street, weaving, or driving at a speed in excess of that which is prudent under the conditions.

(B) Sentence. A person convicted of reckless driving may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $2,000, or to both.

(2) Driving while under the Influence of Intoxicating Liquor or other Drugs.

(A) Offense. A person commits an offense if that person operates a motor vehicle within the territorial jurisdiction of the Grand Traverse Band while under the influence of alcohol or other drugs.

(B) Sentence. A person convicted of driving while under the influence of intoxicating liquor or other drugs may be sentenced to a jail term not to exceed 180 days or to a fine not to exceed $5,000, or to both.

(C) Order for treatment. The judge may, in addition to, or in lieu of, the punishments set out above, order the offender to participate in an alcohol or substance abuse treatment program.

(3) Driving with an Open Alcohol Container.

(A) Offense. A person commits an offense if that person operates a motor vehicle while an open container containing an alcoholic beverage is present anywhere in the passenger compartment of the vehicle.

(B) Sentence. A person convicted of driving with an open alcohol container may be sentenced to a jail term not to exceed 30 days or to a fine not to exceed $1,000, or to both.

(4) Driving with a Loaded Firearm.

(A) Offense. A person commits an offense if that person operates a motor vehicle with a loaded firearm present in the vehicle.

(B) Sentence. A person convicted of driving with a loaded firearm may be sentenced to a jail term not to exceed 93 days or to a fine not to exceed $2,000, or to both.

(5) Operation of Motor Vehicle without Proof of Insurance.

(A) Offense. A person commits an offense if that person operates a motor vehicle without proof of insurance on his/her person or present in the vehicle.

(B) Sentence. A person convicted of operation of a motor vehicle without proof of insurance may be sentenced to a jail term not to exceed 60 days or to a fine not to exceed $1,000. The uninsured vehicle may be impounded by the Band until it is properly insured.

(n) Criminal Homicide.

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(1) Offense. A person commits the offense of criminal homicide if:

(A) That person intentionally causes the death of another person;

(B) With intent to cause bodily injury to a person, that person causes the death of the intended victim or any other person;

(C) That person voluntarily commits or participates in the commission of, or attempts to commit, arson, robbery, burglary, kidnapping, assault, or sexual assault, and in the course of, or in furtherance of the crime that is being committed or attempted, or during flight from the scene of the crime, the death of a person is caused;

(D) That person recklessly or by gross negligence causes the death of another person, including the reckless operation of a motor vehicle; or

(E) That person, through the negligent operation of a motor vehicle, causes the death of another person.

(2) Sentence. A person convicted of criminal homicide may be sentenced to a jail term not to exceed one year or to a fine not to exceed $5,000, or to both, or to the maximum penalty allowable under federal law.

Comment: As discussed above, under the Indian Civil Rights Act, a tribal court may only sentence an offender to a maximum of one year in jail and/or a fine of $5,000. Every effort should be made to obtain a federal prosecution in cases of criminal homicide, in addition to the tribal prosecution. An offender can be prosecuted in both tribal and federal court without violating the United States Constitutional prohibition against double jeopardy because the tribal and federal governments are separate sovereign entities. United States v. Wheeler, 435 U.S. 313 (1978).

(o) Alcohol-Related Offenses.

(1) Possession or Consumption of Alcohol by a Person under 21 Years of Age.

(A) Offense. A person commits an offense if that person is under 21 years of age and knowingly possesses or consumes any alcoholic beverage.

(B) Sentence. A person convicted of possession or consumption of alcohol by a person under 21 years of age may be compelled to perform an amount of community service work and/or undergo rehabilitative treatment as deemed appropriate by the Tribal judge. In addition, the Court may sentence the person who commits this offense to a jail term not to exceed 30 days or to pay a fine not to exceed $1,000, or to both.

(2) Furnishing Alcohol to a Person Under 21 Years of Age.

(A) Offense. A person commits an offense if that person knowingly furnishes, purchases, provides or in any way procures, any alcoholic beverage for the possession or consumption by a person under 21 years of age.

(B) Sentence. A person convicted of purchase of alcohol for a person under 21 years of age may be sentenced to a jail term not to exceed one year or given a fine not to exceed $5,000, or both.

(3) Allowing a Person Under 21 Years of Age to Consume Alcohol.

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(A) Offense. A person commits an offense if that person knowingly allows a person under 21 years of age to consume alcohol in his/her residence, vehicle or presence.

(B) Sentence. A person convicted of allowing a person under 21 years of age to consume alcohol may be sentenced to a jail term not to exceed one year or given a fine not to exceed $5,000, or both.

(p) Possession, Use, Sale, Manufacture and/or Distribution (Controlled Substances).

(1) Offense. It shall be unlawful for any person to possess, use, sell, manufacture, and/or distribute any controlled substance defined and/or described in the Uniform Controlled Substances Act, 21 U.S.C. § 812, as updated, without prior authorization.

(A) Possession and use of cannabis is exempt from prosecution under Subsection (p)(1), provided that both of the following conditions are met:

(i) Such possession and use is in conformity with the Michigan Medical Marihuana Act or the Michigan Regulation and Taxation of Marijuana Act to the extent that such possession or use would be lawful in the jurisdiction of the State of Michigan; and

(ii) Such possession and use does not occur in tribal programs funded by federal appropriations under the tribal housing programs and tribal health programs.

(2) Sentence. Any person convicted of this offense may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed $5,000, or to both.

Comment: As the Tribe may not have sufficient resources to effectively combat the trafficking of illicit substances, it is recommended that the Band allow the state and/or federal government to exercise jurisdiction over on-reservation sale of controlled substances in the event that this becomes a significant problem on the reservation.

(q) Youth and Tobacco.

(1) Offense. It shall be unlawful for any minor to possess, use, or purchase any tobacco or tobacco products. Furthermore, it shall be unlawful for any person to allow the possession, use, or sale of tobacco or tobacco products to any minor.

(2) Sentence. Any person found guilty of this offense may be sentenced to a jail term not to exceed 93 days or to pay a fine not to exceed $2,000, or to both.

(3) Affirmative Defense. It shall be an affirmative defense to this offense when the alleged violation occurred in the furtherance of a recognized Tribal and/or religious purpose.

(r) Animal Control.

(1) Failure to Have a Dog Properly Licensed.

(A) Offense. Any person who owns a dog must have the dog properly licensed under the Leelanau County Animal Control Enforcement Ordinance or by the Grand Traverse Band if the Band sets up its own animal licensing system. A person commits an offense if that person fails to have his/her dog so licensed.

(B) Sentence. A person who commits an offense may be sentenced to a jail term not to exceed

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30 days or to a fine not to exceed $500, or to both.

(2) Allowing a Dog to be a Public Nuisance.

(A) Offense. Any person who owns, possesses, or maintains a dog is responsible for such dog. A person, whose dog barks outside to an extent that a person of reasonable sensibility is disturbed by such barking, or whose dog is vicious or has propensity to be vicious, commits an offense.

(B) Sentence. Any person convicted of allowing a dog to be a public nuisance may be sentenced to a jail term not to exceed 30 days or to pay a fine not to exceed $500, or to both. In addition, the Court may order the destruction of the dog if necessary to protect the public.

(3) Animal Abuse.

(A) Offense. A person commits an offense if that person intentionally beats, cruelly treats, torments, overloads or otherwise abuses any dog, livestock or poultry, or instigates any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

(B) Sentence. A person convicted of animal abuse may be sentenced to a jail term not to exceed 30 days or to a fine not to exceed $1,000, or to both.

(s) Violation of a Tribal Ordinance.

(1) Offense. In addition to the offenses specified above, a person commits an offense under this code if that person violates any criminal ordinance duly enacted by the Tribal Council.

(2) Sentence. A person convicted of violation of a Tribal ordinance may be subject to whatever punishment is specified in the ordinance that was violated.

(t) Habitual Offender.

(1) Offense. Any person who is convicted under Tribal law, who has previous conviction(s) under Tribal law, may be charged as an habitual offender.

(2) Sentence. A person convicted of being an habitual offender may be sentenced as follows:

(A) 2nd Offense: One and a half times the maximum for the underlying offense not to exceed a jail term of one year or to pay a fine not to exceed $5,000, or to both;

(B) 3rd Offense: Two times the maximum for the underlying offense not to exceed a jail term of one year or to pay a fine not to exceed $5,000, or to both;

(C) 4th or More Offense: Not to exceed a jail term of one year or to pay a fine not to exceed $5,000, or to both.

(u) Criminal Violation of Michigan Tribal-State Tax Agreement.

(1) Offense. An individual under the jurisdiction of the Tribal Court that intentionally and maliciously violates the Tax Agreement between the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan, either during or after the Agreement's term, is guilty of criminally violating the Michigan Tribal-State Tax Agreement.

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(2) Sentence. The Tribal Court may sentence a person convicted of criminally violating the Michigan Tribal-State Tax Agreement to a fine of up to $5,000 and may be ordered to pay restitution to the Grand Traverse Band.

(v) Toxic Vapors.

(1) Offense. A person commits the offense of inhaling toxic vapors if that person, for the purpose of becoming intoxicated or subjecting that person to the influence of them, willfully inhales the vapors or fumes of paint, gasoline, glue or any other substance producing intoxicating fumes or vapors.

(2) Sentence. A person guilty of inhaling toxic vapors may be sentenced to imprisonment for a period not to exceed 30 days, or a fine not to exceed $250, or both.

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Chapter 2
Application Of Non-Tribal Laws

§ 201. Adoption of State Laws and Ordinances. [History: Tribal Act #85-363, enacted by Tribal Council on December 18, 1995. As amended by Tribal Act #06-24.1712 enacted by Tribal Council September 27, 2006.]

(a) The Grand Traverse Band adopts the laws, codes, ordinances, and other instruments of the law of the State of Michigan to the extent these instruments, laws, codes, and ordinances do not conflict with appropriate federal law or Tribal codes, ordinances, and laws in force now or enacted in the future.

(b) The intent behind this section is similar to Congress's intent behind the Assimilative Crimes Act, 18 U.S.C. § 13, which makes state law applicable to conduct occurring on lands reserved or acquired by the Federal Government when the act or omission is not made punishable by an enactment of Congress. Similarly, prosecutions instituted under this section are not to enforce the laws of the State of Michigan, but to enforce Tribal law, the details of which, instead of being recited, are adopted by reference from the State of Michigan and are essentially to provide gap fillers where the current GTB Code is silent.

CROSS-REFERENCE: This section ("Application of non-Tribal Laws") is also included in 14 GTBC § 601 (the "Public Safety and Regulation" title).

§ 202. Adoption of State of Michigan's Vehicle Code. [History: Tribal Act #92-10.28, enacted by Tribal Council on April 21, 1992. The Michigan Vehicle Code had previously been adopted on a one year trial basis in Tribal Act #90-839, enacted by Tribal Council on May 19,1990.]

The Tribal Council of the Grand Traverse Band hereby adopts the Michigan Vehicle Code on a permanent basis.

CROSS-REFERENCE: This provision is also contained in 14 GTBC § 603 (the "Public Safety and Regulation" title).

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Chapter 3
Domestic Violence Ordinance

SUBCHAPTER A
General Provisions

§ 301. General Provisions; Policy and Purpose. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

The Grand Traverse Band of Ottawa and Chippewa Indians Tribal Council recognizes that GTB's survival and prosperity depends on strong and healthy families, and that domestic violence is incompatible with strong and healthy families. The purpose of this chapter is to protect the health, safety and welfare of the Grand Traverse Band of Ottawa and Chippewa Indians tribal community, consistent with the Grand Traverse Band's reserved rights, by: preventing acts of domestic violence, affording victims of domestic violence maximum assistance, safety, and support; and holding perpetrators of domestic violence accountable for their actions and for changing their behavior.

§ 302. Jurisdictional Statement. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

Pursuant to Article IV, Section (1)(a) of the Tribal Constitution, the Tribal Council of the Grand Traverse Band hereby enacts this Domestic Violence Ordinance. The Grand Traverse Band has the inherent authority to protect its political integrity and provide for the welfare of its citizens. The jurisdiction of the Tribal Court over persons and territory is limited only by federal law and the Grand Traverse Band Constitution, under which the Tribal Court has the power to decide questions of jurisdiction that may be raised under this code.

§ 303. Sovereign Immunity. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19,2007.]

(a) Nothing in this code is intended or shall be construed as a waiver of the sovereign immunity of the Grand Traverse Band or any of its departments, divisions or enterprises.

(b) No manager, officer or employee of the Tribe is authorized or shall attempt to waive the immunity of the Tribe.

(c) Damage suits against any employee, officer, agent, prosecutor, judge, or manager of the Grand Traverse Band or any of its departments, divisions, organizations or enterprises for disputes arising under this Code are prohibited.

§ 304. Liability of Law Enforcement Officers. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

A law enforcement officer shall not be held liable in any civil or criminal action for an arrest based on probable cause, enforcement of any court order, or any other act or omission arising from an alleged domestic violence crime, if the officer acts in good faith and upon the best information so as to provide protection for victims of domestic violence and to carry out the purposes of this Code.

§ 305. Court orders. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19,

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2007.]

Restraint provisions contained in orders entered under this Code and comparable provisions contained in orders accorded full faith and credit by the Tribal Court shall govern conduct both on and off the reservation.

§ 306. Time Computation. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

In computing any period of time prescribed or allowed by this code, or by rules of the Court, the day of the act, event or default from which the designated period of time begins to run shall be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, holidays, and any other official tribal office closures shall not be counted in the computation.

§ 307. Liberal Construction. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

The provisions of this Code shall be liberally construed in order to further the purpose stated in § 301.

§ 308. Repealer. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

This Code is to be interpreted to supersede and replace any conflicting provisions of all prior codes and laws of the Grand Traverse Band.

§ 309. Severability. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

If any part of this Code or its application to any person or circumstance is held to be invalid, the remainder of this Code or its application to other persons or circumstances is not affected.

§ 310. Definitions. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) "Abuse" means:

(1) Intentionally or recklessly or negligently causing or attempting to cause physical harm or mental anguish to another person; or

(2) Threatening or placing another person in reasonable apprehension of imminent serious physical injury.

(b) "Advocate" or "Victims' Advocate" means a person who is employed or volunteers to provide services to victims of domestic violence and/or sexual assault.

(c) "Court" or "Tribal Court" means the Grand Traverse Band Tribal Court established in Article V of the GTB Constitution.

(d) "Dating Relationship" means a social relationship of a romantic nature. In determining whether

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parties have a "dating relationship," the Court shall consider:

(1) The length of time the relationship has existed.

(2) The nature of the relationship;

(3) The frequency of the interaction between the parties.

(e) "Domestic Violence" means:

(1) Engaging in any of the following acts against family or household members or persons in a dating relationship:

(A) Attempting to cause or causing physical harm;

(B) Attempting to cause or causing injury to a pet or property damage;

(C) Attempting to cause or causing a family or household member to engage involuntarily in sexual activity by force, threats or duress;

(D) Inflicting injury to household pets, reasonable fear of physical harm, sexual assault, or property damage;

(E) Stalking, as defined in this Code;

(F) All crimes involving threats, violence, assault and/or physical or sexual abuse against, adults, children, the elderly or others enumerated in Title 9 of the Grand Traverse Band Constitution may be charged as domestic violence and those crimes listed under the Major Crimes Act, 18 U.S.C. § 1153.

(2) Any act of self-defense or self-defense of another reasonably taken in response to an act of domestic violence shall not be considered a crime of domestic violence.

(f) "Essential Personal Effects" means those items necessary for a person's immediate health, welfare and livelihood, such as clothing, cribs, bedding, medications, personal documentation, personal hygiene items and tools of trade.

(g) "Family or Household Member" includes:

(1) Spouses or former spouses;

(2) Persons with whom the individual has or has had a dating relationship;

(3) Persons who have a child in common or who are expecting a child in common, regardless of whether they have been married or lived together at any time;

(4) Persons 18 years of age or older who are related by blood or marriage;

(5) Persons 18 years of age or older who are presently residing together or who have resided together in the past;

(6) Persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren;

(7) Physically or mentally disabled persons and their caregivers residing in the household;

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(8) Elders 55 years of age or older and their caregivers residing in the household;

(9) Minor children of a person in a relationship described in Subsection (g)(1) through (8) above; or

(10) Vulnerable adults residing in the household, including adults unable to protect themselves from abuse, neglect, or exploitation.

(h) "Harassment" means conduct directed toward a victim/minor victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim/minor victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(i) "Indian Country" has the meaning given the term in 18 U.S.C. § 1151.

(j) "Law Enforcement" means the Grand Traverse Band Department of Public Safety or any other police department authorized by the Tribe.

(k) "Minor" means any unmarried person who is less than 18 years of age, and has not been emancipated by order of a court of competent jurisdiction, or a person who is 18 years of age, but remains under the continuing jurisdiction of the court.

(l) "Next Friend" means any legally competent adult that petitions or represents a minor in proceedings under this Code.

(m) "Prosecutor" means the Grand Traverse Band Tribal Prosecutor or any other person authorized by the Tribe to perform the duties of the prosecutor for the purpose of this code.

(n) "Protection order" means:

(1) Any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and

(2) Includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendente lite order in another proceeding, if the civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(o) "Reservation" means all territory within the exterior boundaries of the Grand Traverse Band Indian Reservation and six-county service area as defined in Article I, § 2(a) of the Grand Traverse Band Constitution.

(p) "Restitution" means repayment to a victim of domestic violence, including but not limited to property damage, moving expenses, medical expenses related to the incident of domestic violence, or loss of earnings or support.

(q) "Special domestic violence criminal jurisdiction" means the criminal jurisdiction that GTB may exercise under 25 U.S.C. § 1304 but could not otherwise exercise by operation of federal common law.

(r) "Spouse or intimate partner" has the meaning given the term in 18 U.S.C. § 2266.

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(s) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual or minor that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(t) "Tribe" or "Tribal" refers to the Grand Traverse Band of Ottawa and Chippewa Indians, a sovereign nation.

(u) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes the following:

(1) Coming into and remaining a visual or physical presence of the person;

(2) Following the person;

(3) Approaching or confronting the person in a public place or on private property;

(4) Waiting outside the home, property, place of work or school of the person or of a member of that person's family or household;

(5) Sending or making written communication in any form to the other person;

(6) Speaking with the person by any means;

(7) Communicating with the person through a third party;

(8) Committing a crime against the person;

(9) Communicating with a third party who has some relationship to the person with the intent of affecting the third party's relationship with the person;

(10) Communicating with business entities with the intent of affecting some right or interest of the person;

(11) Damaging the person's home, property, place of work or school; or

(12) Delivering directly or through a third party any object to the home, property, place of work, or school of the person.

(v) "Victim" means a family or household member, or one with whom a dating relationship exists, who has been subjected to domestic violence.

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SUBCHAPTER B
Domestic Violence Offenses.

§ 311. Domestic Violence and Sentencing. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A person commits the crime of domestic violence when:

(1) The person engages in any of the following acts against a family or household members or person in a dating relationship.

(b) First Offense: Any person who commits a crime of domestic violence with no prior conviction of domestic violence in any jurisdiction shall be deemed guilty of the first offense of domestic violence. A person convicted of a first offense of domestic violence shall be imprisoned, for a term of not less than 3 days or more than one year and shall be fined an amount not less than $100 or more than $5,000. A domestic violence assessment and a requirement that the defendant follows through with the recommendations made in the assessment shall be part of sentencing as well as restitution when appropriate.

(c) Second Offense: A person convicted of a second offense of domestic violence shall be imprisoned for a term of not less than 30 days or more than one year and fined an amount not less than $500 or more than $5,000. Mandatory counseling shall be part of sentencing as well as restitution when appropriate.

(d) Third and Subsequent Offense: A person convicted of a third or subsequent offense of domestic violence shall be imprisoned for a term of not less than 93 days or more than one year and fined an amount not less than $1,000 or more than $5,000. Mandatory counseling shall be part of the sentencing as well as restitution when appropriate.

(e) Availability of Deferral of Sentence for First-Time Offender.

(1) An individual who has not been convicted previously of an assaultive crime may plead guilty to a violation in Title 9, Chapter 2 or 3 of the Tribal Code and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, an individual who has or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender. The court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. Before deferring proceedings under this subsection, the court shall consult any resource that may have knowledge that the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this section. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall consult the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this section.

(3) An order of probation entered under this chapter may include any condition of probation authorized under the Tribal Code or Court Rules, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to

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pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in drug court. The court may order the defendant to be imprisoned for not more than 12 months at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines. However, the period of imprisonment shall not exceed the maximum period of imprisonment authorized for the offense if the maximum period is less than 12 months.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(A) The accused commits an assaultive crime during the period of probation;

(B) The accused fails to comply with court-ordered counseling regarding his or her violent behavior;

(C) The accused violates an order of the court that he or she have not contact with a named individual.

(f) For Second and subsequent Convictions: The Court may suspend up to half of the imposition of fines and imprisonment for domestic violence offense(s) on the condition that the perpetrator is placed on probation for not less than one year and completes domestic violence counseling or treatment as ordered. Failure to comply with terms of probation shall result in the completion of the original sentence.

(g) Revenue from Fines: Revenue from fines may be used to help defray the costs of services required under this code for defendants who demonstrate that they are unable to afford mandatory services.

§ 312. Aggravated Domestic Violence. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Any person who commits an act of domestic violence without a weapon, and inflicts serious or aggravated injury upon that person, but did not intend to commit murder or inflict great bodily harm less than murder has committed the crime of aggravated domestic violence.

(b) Sentence for aggravated domestic violence: A person convicted of aggravated domestic violence shall be imprisoned for a term of not less than 93 days or more than one year and fined no less than $1,000 or more than $5,000. Mandatory counseling shall be a part of the sentencing as well as restitution when appropriate.

§ 313. Violation of a Domestic Violence Restraining Order. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007. On]

(a) Any person who violates a restraint provision contained in an order entered under this code, or of a comparable provision of an order accorded full faith and credit by the court, of which the person had actual notice prior to the time of the alleged violation, has committed the crime of violating a domestic violence restraining order.

(b) For the purposes of this code, violation of a domestic violence restraining order shall be considered a crime of domestic violence.

(c) Penalty: Depending on the circumstances, violation of a restraining order or PPO may subject a respondent to immediate arrest and to the civil and criminal contempt powers of the court, which may include up to 93 days' imprisonment and/or a fine up to $1,000.

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§ 314. Interfering With Reporting of Domestic Violence. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Any person who prevents or attempts to prevent a victim of domestic violence or a witness to an act of domestic violence from calling 911 emergency communication systems, obtaining medical assistance or making a report to any tribal, state or federal law enforcement official, has committed the crime of interfering with the reporting of domestic violence.

(b) Penalty: The penalty for interfering with a report of domestic violence will be up to 180 days imprisonment and/or up to a $1,000 fine.

§ 315. Assaulting Domestic Violence Staff. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Any written or verbal threat or any other assault upon a person acting in an official or professional capacity in the protection of victims of domestic violence shall be considered an assault of the most serious nature and punishable by tribal law.

(b) Penalty: The penalty for assaulting a domestic violence staff person will be up to 180 days' imprisonment, and/or a $5,000 fine.

§ 316. Stalking. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A person commits the crime of stalking if, without lawful authority:

(1) The person willfully and repeatedly engages in unwanted contact with another person, either directly or indirectly; and

(2) The person receiving the unwanted contact is intimidated, alarmed, emotionally distressed, or placed in fear that the stalker intends to injure the person or property of the person or of another person and the feeling of intimidation, alarm, emotional distress or fear is one that a reasonable person in the victim's situation would experience under all the circumstances; and

(3) The stalker either:

(A) Intends to frighten, intimidate, alarm or emotionally distress the other person; or

(B) Knows or reasonably should know that the other person being followed is frightened, intimidated, alarmed or emotionally distressed, even if the stalker did not intend such a result.

(b) Penalty: Stalking will result in up to one year imprisonment and/or up to a $1,000 fine.

§ 317. Stalking a minor. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A person commits the crime of stalking a minor if, without lawful authority:

(1) The person willfully and repeatedly engages in unwanted contact with a minor, either directly or indirectly; and

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(2) The minor receiving the unwanted contact is intimidated, alarmed, emotionally distressed, or placed in fear; the stalker intends to injure the person or property of the person or of another person and the feeling of intimidation, alarm, emotional distress or fear is one that a reasonable person in the victim's situation would experience under all the circumstances; and

(3) The stalker either:

(A) Intends to frighten, intimidate, alarm or emotionally distress the minor; or

(B) Knows or reasonably should know that the minor being followed is frightened, intimidated, alarmed or emotionally distressed, even if the stalker did not intend such a result.

(b) Penalty: Stalking of a minor shall result in not less than 93 days, but no more than a year imprisonment and/or up to a $5,000 fine.

§ 318. Aggravated Stalking. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

(1) At least one of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order or at least one of the actions is in violation of an injunction or preliminary injunction.

(2) At least one of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.

(3) The course of conduct includes the making of one or more credible threats against the victim, a member of the victim's family, or another individual living in the same household as the victim.

(4) The individual has been previously convicted of a violation of this section or § 301.

(b) The Tribal Court may place an individual convicted of violating this section on probation for any term of years, accordingly. If a term of probation is offered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(1) Refrain from stalking any individual during the term of probation;

(2) Refrain from any contact with the victim of the offense;

(3) Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(c) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

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(d) Penalty: Penalty for aggravated domestic violence shall result in no less than 93 days, but no more than one year imprisonment and/or up to a $5,000 fine.

(e) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

§ 319. Aggravated Stalking of a Minor. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007,]

(a) An individual who engages in stalking a minor is guilty of aggravated stalking of a minor if the violation involves any of the following circumstances:

(1) At least one of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order or at least one of the actions is in violation of an injunction or preliminary injunction;

(2) At least one of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal;

(3) The course of conduct includes the making of one or more credible threats against the minor victim, a member of the minor victim's family, or another individual living in the same household as the minor victim;

(4) The individual has been previously convicted of a violation of this section or § 301.

(b) The Tribal Court may place an individual convicted of violating this section on probation for any term of years, accordingly. If a term of probation is offered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(1) Refrain from stalking any individual during the term of probation;

(2) Refrain from any contact with the minor victim of the offense.

(3) Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(c) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the minor victim after having been requested by the minor victim/minor victim's parent(s)/caregiver to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the minor victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the minor victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(d) Penalty: Penalty of aggravated stalking of a minor shall result in not less than 180 days, but no more than one year imprisonment and/or up to a $5,000 fine.

(e) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

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§ 320. Use or Possession of a Dangerous Weapon. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

A person who engages in conduct proscribed under §§ 311 through 319, and who, in the course of engaging in that conduct, possesses a dangerous weapon or an article used or fashioned in a manner to lead any person present to reasonably believe the article is a dangerous weapon, or who represents orally or otherwise that he or she is in possession of a dangerous weapon, is guilty of a crime.

§ 321. Stalking to Be Treated as Domestic Violence Crime. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

All provisions, mandates, and definitions as stated in this Code shall be equally applied and enforced with regards to the crime of stalking as to the crime of domestic violence. The crime of stalking is not limited to family or household members or to persons in a dating relationship.

§ 322. Location of Stalking Perpetrator Not Bar to Prosecution. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) The location of the threatening action by a stalking perpetrator does not bar prosecution under this chapter. The act is a credible threat when full transmittal of the threat has been completed to the victim, when said victim is within the boundaries of the six-county service area.

(b) Corroborated initial or intervening acts, used to establish a pattern of conduct for the purpose of probable cause under this section, but which occurred outside the boundaries of the six-county service area, may be used to establish and corroborate said pattern for prosecution of a violation under this section. However, initial or intervening acts occurring outside the boundaries of the six-county service area are not prosecutable as separate offenses under this section.

(c) The incarceration of the person making the threat shall not bar prosecution under this chapter.

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SUBCHAPTER C
Law Enforcement Authority

§ 323. Entering a Residence Without a Warrant. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A law enforcement officer need not obtain a search warrant to enter a residence where he or she has probable cause to believe a crime of domestic violence is occurring, or has just occurred and that the perpetrator is still in the residence.

(b) When law enforcement responds to 911 or another emergency phone call or to any credible report alleging that domestic violence may be taking place in a residence, the officer may enter the home without a warrant if the officer reasonably believes entering the home is necessary to assure the safety of any potential victim of domestic violence.

§ 324. Seize and Hold Weapons and/or Firearms. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Law enforcement officers shall seize all weapons that are alleged to have been involved or were threatened to be used in a domestic violence crime and any weapon in the vicinity of the alleged commission of the offense.

(b) A law enforcement officer may seize a weapon that is in plain view of the officer or was discovered pursuant to a lawful search as necessary for the protection of the officer or other persons.

(c) Law enforcement officers are authorized to confiscate weapons and/or firearms from, or accept and hold weapons and/or firearms for, a person who is prohibited from possessing or using them.

§ 325. Mandatory Arrest. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A law enforcement officer who has probable cause to believe that a person has committed a domestic violence crime within the past four hours shall, without a warrant, arrest the alleged perpetrator. A law enforcement officer shall arrest an alleged perpetrator of domestic violence whether or not the victim signs a complaint and whether or not the arrest is against the express wishes of the victim.

(b) A person arrested for a domestic violence crime shall not be released from detention until 72 hours after arrest unless a court hearing is held prior to the expiration of the seventy-two-hour period.

(c) Law enforcement officers shall follow all jurisdictional guidelines when dealing with a domestic violence situation. If jurisdiction precludes arrest, the appropriate authority will be notified immediately of the situation.

(d) The officer shall not make dual arrests unless probable cause determines both parties were assaulting each other equally or a determination cannot be made as to who was the primary assaulting party.

(e) The officer shall not subject a victim to a lie-detector test.

§ 326. Mandatory Arrest for Violation of Protection Order. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

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(a) When a law enforcement officer has probable cause to believe that a respondent has violated one of the following orders of the Tribal court or of any other court order entitled to full faith and credit of this code, the officer shall, without a warrant, arrest the alleged violator. Arrest shall be mandatory where the violation is of one of the following:

(1) An order not to commit or threaten to commit further acts of domestic violence;

(2) An order not to contract, harass, annoy, telephone, or otherwise communicate, directly or indirectly, with the alleged victim, the alleged victim's family or household members, or any witness to the alleged act of domestic violence;

(3) An order to vacate, or stay away from the victim's residence;

(4) An order to stay away from any well-defined geographic area, including, but not limited to, a residence, workplace, school or daycare of the alleged victim, the alleged victim's family or household members, or any witness to the alleged act of domestic violence.

(5) An order prohibiting the possession or use of any firearm or other weapon specified by the court, and to turn such weapon over to law enforcement for safekeeping.

(b) A person arrested for violation of a protection order shall not be released from detention until 72 hours after arrest unless a court hearing is held prior to expiration of the seventy-two-hour period.

§ 327. Cross Complaints of Domestic Violence. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) If a law enforcement officer receives a complaint alleging domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who was more likely to have been the primary aggressor. If the law enforcement officer determines that one person was the primary aggressor, the officer need not arrest the other person alleged to have committed a domestic violence crime. In determining whether one party was the primary aggressor, the office shall consider:

(1) The history of domestic violence, both documented prior complaints and convictions and the officer's own prior knowledge of the family.

(2) The comparative demeanor of the parties involved and the relative severity of the injuries inflicted on each person.

(3) The likelihood of future injury to each person.

(4) Whether one person acted in self-defense or in defense of others.

(5) The degree to which one of the persons has acted with a more deliberate intent to control, isolate, intimidate, emotionally demean, cause injury or pain or fear of harm to the person or third party.

§ 328. Notice of Escape or Release. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Upon the escape from custody of a person arrested for, charged with, or convicted of a criminal offense under this code, law enforcement shall make reasonable efforts to immediately notify the victim of the crime, the victim's advocate, the court and the prosecutor.

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(b) When a person who was convicted of a criminal offense under this code is scheduled to be released from custody, law enforcement shall make reasonable efforts to notify the victim and/or victim's advocate prior to, or upon release of, the person from custody.

(c) If a person who was convicted of a criminal offense under this code is scheduled for early release, law enforcement shall make reasonable efforts to notify the victim of the crime, the victim's advocate, the court and the prosecutor prior to such release.

§ 329. Reporting Statistics. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.[7]]

In all cases of domestic violence, the officer involved in responding to or investigating the incident shall make a written report, and the number of such cases shall be tabulated. The Public Safety Department shall produce an annual report setting out the numbers of reports of domestic violence, investigations, and arrests. The report and related statistics shall be made available to appropriate agencies and to the public.

7. Editor's Note: This motion also provided for the renumbering of former §§ 329 through 358 as §§ 330 through 359, respectively.

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SUBCHAPTER D
Court Procedures

§ 330. Pre-Trial Release; Considerations for Pre-trial Release. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) In determining whether to order release of a person lawfully arrested for a domestic violence crime, and, if so, under what conditions, the court shall consider:

(1) The likelihood that the defendant will appear for further criminal proceedings;

(2) The nature and severity of the offense;

(3) The likelihood that the defendant will commit a violent crime, seek to intimidate a witness, or unlawfully interfere with the administration of justice;

(4) The criminal history of the defendant, with particular emphasis on prior acts of domestic violence and other assaultive crimes.

§ 331. Conditions for Pre-trial Release. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) If the court finds that the defendant should be released pending further criminal proceedings, the court may impose one or more of the following conditions of release:

(1) Posting of bond in an amount deemed adequate to guarantee the appearance of the defendant throughout the criminal proceedings;

(2) Postponing release until after a further "cooling off" period not to exceed 120 hours;

(3) An order to commit no further acts of domestic violence or exhibit any assaultive behavior;

(4) An order not to contact, harass, annoy, telephone, or otherwise communicate, directly or indirectly, with the alleged victim, the alleged victim's family or household members, or any witness to the alleged act of domestic violence, except that essential contact may be made through application to the court;

(5) An order to vacate, or stay away from the victim's residence, even if it is a shared residence or principally owned by the alleged perpetrator;

(6) An order to stay away from any well-defined geographic area, including, but not limited to, residence, workplace, school or daycare of the alleged victim, the alleged victim's family or household members, or any witness to the alleged act of domestic violence;

(7) An order prohibiting the possession or use of any firearm or other weapon specified by the court, and to turn such weapon over to law enforcement for safekeeping;

(8) An order prohibiting the person from possessing or consuming alcohol or controlled substances and from being at any place where alcohol is served or being consumed. The court may order physical, mechanical, chemical or electronic testing to assure compliance.

(9) Any other order the court believes is reasonably necessary to protect and ensure the safety of the alleged victim or family or household member, or to ensure the appearance of the person at subsequent court proceedings.

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§ 332. Notifying the Defendant of Pre-trial Release Conditions. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) When pre-trail release conditions are imposed on an alleged perpetrator, the court shall issue a written order containing the conditions of release and a statement, in either bold face type or capital letters, that substantially informs the released person that:

"Violation of this order is a criminal offense and will subject the violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate it. You have the sole responsibility to fully comply with all of the order's provisions."

(b) The court shall immediately distribute a copy of the order to law enforcement and direct law enforcement to provide a copy to the alleged perpetrator upon his or her release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person had notice of the conditions.

§ 333. Duration of Pre-trial Release Conditions. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

If a criminal complaint is not filed prior to the in-custody hearing or by the arraignment date, then any condition of pre-trial release ordered by the court shall expire.

§ 334. Notifying the Victim of Pre-trial Release. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

When a person who has been arrested for a crime under this code is released from custody, the Court shall direct law enforcement to use all reasonable means to notify the victim and/or the victim's advocate that the person is being released and to furnish the victim with a copy of the conditions of release.

§ 335. Mandatory Arrest for Violation of Pre-trial Release Conditions. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) When a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed by the court after an arrest or detention for allegedly committing a domestic violence crime, the officer shall, without a warrant, arrest the alleged violator.

(b) A person arrested for violation of pre-trial release conditions shall not be released from detention until 72 hours after arrest unless a court hearing is held prior to the expiration of the seventy-two-hour period.

§ 336. Trial Court Handling of Domestic Violence Cases. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Because of the serious nature of domestic violence, the court in domestic violence cases shall not:

(1) Dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(2) Require proof that either party is seeking dissolution of marriage prior to instigation of criminal

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proceedings;

(3) Disclose the alleged victim's location to any person upon a showing that there is a possibility of further violence. When the victim's location is not disclosed, any communication with the victim by the attorney of the defendant, or any other person, shall be conducted through the victim's advocate or the court.

(4) Subject a victim to a lie-detector test.

(5) Dismiss a criminal case involving domestic violence for the sole reason that civil settlement or compromise is reached. Evidence of a civil settlement or compromise shall not be admissible in the criminal proceeding as evidence of consciousness of guilt or innocence, or an admission against interest. It shall not be used to impeach a victim's testimony.

(6) Order peacemaking or mediation in cases involving domestic violence.

(b) When the court dismisses criminal charges or a prosecutor moves to dismiss charges against a defendant accused of a crime involving domestic violence, the specific reasons for the dismissal must be recorded in the court file. The prosecutor shall indicate the specific reason why any witnesses are unavailable and the reasons the case cannot be prosecuted. Any dismissal of a complaint by the court, for any reason other than insufficient evidence, may be appealed by the Tribe or the victim to the GTB Appellate Court.

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SUBCHAPTER E
Evidence

§ 337. Rules of Evidence. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Spousal Privileges Not Applicable. In any proceeding under this code where a spouse is the alleged victim of domestic violence, the privilege of confidential communications between spouses and the testimonial privilege of spouses shall not apply to protect the defendant or respondent.

(b) Victim/Advocate Privilege. In any proceeding under this code, a victim of domestic violence may refuse to disclose, and may prevent an advocate from disclosing, confidential communications between the victim and advocate and written records and reports concerning the victim. The victim/advocate privilege shall not, however, relieve the advocate of the mandatory duty to report child abuse and shall not apply when the advocate is required to give evidence in child abuse proceedings.

(c) Evidence concerning Domestic Violence. In any proceeding under this code, the Court may admit into evidence without regard to any hearsay rule any of the following: expert testimony, learned treatise, articles, videos, or other relevant and reliable evidence concerning or examining the impact of domestic violence on its victims.

§ 338. Statement by Declarant Relating to Infliction or Threat of Physical Injury; Admissibility; Notice. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Evidence of a statement by a declarant is admissible if all of the following apply:

(1) The statement purports to narrate, describe, or explain the infliction or threat of physical injury upon the declarant.

(2) The action in which the evidence is offered under this section is an offense involving domestic violence.

(3) The statement was made at or near the time of the infliction or threat of physical injury. Evidence of a statement made more than five years before the filing of the current action or proceeding is inadmissible under this section.

(4) The statement was made under circumstances that would indicate the statement's trustworthiness.

(5) The statement was made to a law enforcement officer.

(b) Circumstances relevant to the issue of trustworthiness include, but are not limited to, all of the following:

(1) Whether the statement was made in contemplation of pending or anticipated litigation in which the declarant was interested.

(2) Whether the declarant has bias or motive for fabrication of the statement, and the extent of any bias or motive.

(3) Whether the statement is corroborated by evidence other than statements that are admissible

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only under this section.

(c) To offer evidence under this section, the prosecuting attorney must disclose the evidence, including the statements of witnesses or summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.

(d) Nothing in this section shall be construed to abrogate any privilege conferred by law.

§ 339. Defendant's Commission of Other Acts of Domestic Violence; Admissibility; Notice. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Except as provided in Subsection (d) in a criminal action in which the defendant is accused of any offense involving domestic violence, evidence of the defendant's commission of other acts of domestic violence is admissible for any purpose for which it is relevant.

(b) If the prosecuting attorney intends to offer evidence under this section, the prosecuting attorney shall disclose the evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of the trial or at a later time as allowed by the Tribal Court for good cause shown.

(c) This section does not limit or preclude the admission or consideration of evidence under any other statute, rule of evidence, or case law.

(d) Evidence of an act occurring more than 10 years before the charged offense is inadmissible under this section, unless the Tribal Court determines that admitting this evidence is in the interest of justice.

§ 340. Reasons for Dismissal Required in Court File. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) When a prosecutor moves to dismiss charges against a defendant accused of domestic violence, or when the court dismisses such charges, the specific reasons for the dismissal must be recorded in the court file.

(b) If the dismissal is based on the unavailability of the alleged victim or any witness, the prosecutor shall indicate the specific reason why such person is unavailable and why the case cannot be prosecuted.

§ 341. Firearms Disqualification; Purpose. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

Consistent with federal law, 18 U.S.C. § 922, the purpose of this section is to prohibit any person who has been convicted of a crime of domestic violence under tribal, state or federal law, or any person who is subject to an order of protection based upon a finding that the person presents a credible threat of violence to the victim, from possessing a firearm.

§ 342. Firearms Prohibition. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) It shall be unlawful for any person to possess, receive, or transport a firearm who:

(1) Is subject to a court order that:

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(A) Was issued after a hearing of which such person received actual notice and had an opportunity to participate; and

(B) Restrains such person from injuring, harassing, stalking or threatening an intimate partner or family or household member or engaging in other conduct that would place an intimate partner or family or household member in reasonable fear of bodily injury; and

(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or household or family member; or

(ii) By its terms explicitly prohibit the use, attempted use, or threatened use of physical force against such intimate partner or household or family member that would reasonably be expected to cause bodily injury.

(2) Has been convicted in state, federal or tribal court of a crime of domestic violence.

(3) A person subject to an order issued under Subsection (a)(1) may petition the court for suspension or termination of the order to restore firearm use privileges. The person shall have the burden of demonstrating that:

(A) The person no longer constitutes a threat against any household or family member; and

(B) Prior to issuance of the order, that the person used a firearm for subsistence hunting.

(b) If the court finds that the person has met the requirements of Subsection (a)(3)(a) and (b), the court may exercise its discretion to allow the person to use a firearm for subsistence hunting during authorized hunting seasons.

§ 343. Penalty. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

Violating the firearms requirement set forth in this chapter is a crime of domestic violence. Any related sentences for a violation of this section and any other section of this code shall be served consecutively.

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SUBCHAPTER F
Personal Protection Orders

§ 344. Civil Action. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

There shall exist a civil action known as a "Petition for a Personal Protection Order."

§ 345. Venue. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A petition may be filed in any of the following circumstances:

(1) The petitioner resides or is domiciled within the six-county service area;

(2) The respondent resides or is domiciled within the six-county service area;

(3) The alleged act of domestic violence occurred within the six-county service area;

(4) A communication that allegedly constitutes domestic violence was either transmitted or received within the six-county service area.

§ 346. Effects of Other Proceedings Pending. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

A petition for an order of protection may be filed regardless of whether other court proceedings between the parties have been filed or criminal charges have been filed against the alleged abuser.

§ 347. Who May File a Petition for Order of Protection. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) Any one of the following may file a petition for an order of protection on behalf of a victim of domestic violence or stalking:

(1) Any person who alleges that he or she has been the victim of domestic violence or stalking;

(2) A family or household member, or a next friend, on behalf of a victim under the age of 18 years;

(3) A family or household member, or next friend, on behalf of a victim who is prevented from doing so by hospitalization, by physical or mental disability, or by fear;

(4) Family Services Department on behalf of a victim;

(5) The Tribal Prosecutor.

(b) Family household members, including adults, may file a joint petition; provided, all adults included in the petition sign the petition.

(c) Persons under the age of 18 must have a parent, guardian, or next friend file the petition unless the parent or guardian is the alleged abuser or unless the youth is emancipated. If the parent or guardian is the alleged abuser, an adult relative or friend may file on behalf of the youth. If the youth is emancipated, the youth may file on his or her own behalf.

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§ 348. Contents of Petition. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) A petition for an order of protection shall include the following information:

(1) The name and address where the petitioner would like to receive notices from the court;

(2) An allegation that domestic violence or stalking has taken place;

(3) The names, ages, and tribal status of all persons known to the petitioner to be in need of protection;

(4) The name, age, tribal status and address of the alleged abuser, and his or her relationship to each victim;

(5) A signed statement or separate affidavit filed with the petition stating in the petitioner's own words the specific facts and circumstances of the alleged domestic violence, including whether the petitioner believes that he or she is in danger of further domestic violence;

(6) A statement listing each known civil or criminal action or proceeding, past and present, involving both parties or the custodial or residential placement of a child of the parties; the court of record for each action or proceeding; and any identifying information which may enable the court to access the court records regarding those proceedings.

§ 349. Omission of Petitioner's Address in Petition. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

A petitioner may omit his or her address from the petition and any other documents filed with the court. If such information is omitted, and is determined by the court to be needed to advance the proceedings, the court may order that disclosure be made orally and in chambers, out of the presence of the respondent. If the court orders disclosure, the information shall be kept under seal.

§ 350. Filing Fees. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

A petition for an order of protection shall be filed with the Court Clerk. There shall be no fee for filing the petition.

§ 351. Temporary Order of Protection. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) When the court finds probable cause to believe that there is a danger of domestic violence to the petitioner, based on an allegation that domestic violence has occurred or is about to occur, the court may enter a temporary order of protection on an ex-parte basis, without notice to the respondent, pending a full hearing.

(b) A temporary order may be issued by telephone or fax. A telephone order shall be followed by a written order from the Tribal Judge mailed or faxed within three working days from the date of the telephone order.

(c) Following entry of a temporary order of protection, the court shall:

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(1) Set a date for a hearing on the petition for an order of protection in accordance with this section.

(2) Cause the order to be delivered to the GTB Tribal Police Department for enforcement purposes and for service upon the respondent.

(3) Transmit a copy of the order to any additional appropriate law enforcement or other agency designated by the petitioner.

(d) If a hearing is not held within the time required by § 352, the temporary order shall expire unless it is re-issued by the court for good cause.

§ 352. Notice of Hearing. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

Upon receipt of a petition for an order of protection, the court shall set a date for hearing to be held within 15 days or at the next scheduled court date for civil cases, whichever is earlier.

§ 353. Service of Process. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A petition, notice of hearing, and temporary order of protection issued pursuant to this subsection shall be served on the respondent at least 72 hours before the hearing. If service has not been made within 72 hours of the hearing, the court may set a new hearing date and re-issue a temporary order of protection as appropriate.

(b) Service may be made by tribal law enforcement or by any officer of the court by handing a copy to the respondent.

(c) If, after a diligent effort has been made to personally serve the respondent, personal service cannot be made, the court may order that the respondent be served by certified mail, return receipt requested. Such service is complete upon delivery of the mail.

(d) If the certified mail is returned with a notation by postal authorities that the respondent refused to accept the mail, or that the mail was unclaimed, the court may order that the respondent be served by mailing a copy by first class mail to the respondent at his or her last and best known address. Service by first class mail is deemed effective three days after mailing.

§ 354. Order of Protection. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Upon and after hearing, if the court finds, by a preponderance of the evidence, that domestic violence or stalking has occurred or is likely to occur in the future, the court may issue an order of protection containing provisions:

(1) Prohibiting the respondent from committing or threatening to commit acts of domestic violence against the petitioner or the petitioner's family or household members.

(2) Prohibiting the respondent from contacting, harassing, annoying, telephoning, or otherwise communicating with the petitioner, the petitioner's family or household members, directly or indirectly, through friends, relatives or co-workers.

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(3) Requiring the respondent to vacate, or stay away from, the petitioner's residence, even if it is a shared residence or principally owned by the respondent.

(4) Requiring the respondent to stay away from any well-defined geographic area, including, but not limited to, a residence, workplace, school or daycare of the petitioner or the petitioner's family or household members.

(5) Prohibiting the respondent from possessing or using any firearm or other weapon specified by the court, and ordering the respondent to turn such weapons over to law enforcement for safekeeping. In exercising its discretion, the court shall give due consideration to 14 GTBC Chapter 7.

(6) Establishing possession of the parties' residence and use of vehicles or other essential personal effects, regardless of ownership, and directing law enforcement to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the residence, vehicle, and other personal effects or to supervise the petitioner's or respondent's removal of personal belongings.

(7) Prohibiting the destruction, liquidation or disposal of any and all joint assets or property and any and all specific assets and property of the petitioner.

(8) Granting temporary custody of any minor children to the petitioner and/or establishing visitation rights. Any temporary custody order shall provide for child support and temporary support of the person having custody of the children in amounts deemed proper by the court.

(9) Ordering the respondent to timely pay any exiting debts of the respondent, including mortgage or rental payment necessary to maintain the petitioner in his/her residence.

(10) Ordering the respondent to pay for the support of the petitioner and any minor children if the respondent is found to have a duty to support the petitioner or minor children.

(11) Ordering the respondent to reimburse the petitioner for any expenses associated with the domestic violence incident, including, but not limited to, medical expenses, counseling, shelter, repair or replacement of damaged property, court costs and attorney fees.

(12) Ordering the respondent to attend and successfully complete one or more programs, including but not limited to, a domestic violence perpetrator program, mental health counseling, substance abuse treatment, and parenting classes, and to execute all forms and releases that are necessary for the court to be kept apprised of the defendant's compliance with the court's order.

(13) Any other order the court believes is reasonably necessary to protect and ensure the safety of the alleged victim or family or household member.

§ 355. Service of Order of Protection. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) All orders of protection not received in court shall be served by law enforcement on the respondent by delivering a copy personally to the respondent.

(b) The clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to law enforcement for service upon the respondent. Service of an order under this chapter shall take precedence over the service of other documents, unless they are of similar emergency nature.

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(c) If law enforcement cannot complete service on the respondent within 10 days, the petitioner shall be notified. The petitioner shall provide information sufficient to permit notification if possible.

(d) If the order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(e) Any person who serves an order of protection upon a respondent shall file an affidavit with the court stating the date, time, place, and manner of service, and any other facts necessary for the court to determine if service has been made.

§ 356. Duration of Order/Motion to Renew. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) An order of protection shall remain in effect for a period of two years unless it is terminated or modified by the court prior to that time. The court may make an order of protection for a longer period of time or may make a permanent order of protection if the court determines that it is necessary for the protection of the victim and the victim's family.

(b) A petitioner may file a written motion to renew an order of protection at any time within three months prior to the expiration of the order. The motion shall be supported by a declaration stating why the petitioner believes the order should be renewed. The motion shall be served and a hearing scheduled and conducted according to the procedures set forth in this chapter.

§ 357. Request to Terminate or Modify Order by Petitioner. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007.]

(a) A temporary modification may be made ex-parte upon a showing of immediate danger to the petitioner or a member of the petitioner's family or household. However, an order of protection shall not be dismissed until the following has been completed:

(1) The petitioner will attend a protection order dismissal session at the local Women's Resource Center or other agency providing this service; and

(2) A full court hearing is held and the request to dismiss the protection order is determined by the Judge.

§ 358. Request to Modify Order by Respondent. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) A respondent may request a modification of an order of protection if the order either:

(1) Removes the respondent from a residence that he or she owns;

(2) Requires the respondent to stay away from a specific residence, school, place of employment or other location;

(3) Grants the petitioner possession and use of automobile and other essential personal effects;

(4) Grants the petitioner temporary custody of a child or children;

(5) Provides or denies the respondent visitation with his or her minor child or children;

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(6) Requires the respondent to make payments to the petitioner, the court or another party.

(b) Upon receiving the respondent's request, the court shall set a hearing date as soon as practicable, but in no event later that 15 days after the next day on which court is in session following the filing of respondent's request. Notice of the request for modification and the hearing date shall be served on the petitioner in accordance with § 355.

(c) At the hearing, the court shall consider whether any less-restrictive alternatives may be appropriate under the circumstances. The court may modify the order where the order works an unreasonable hardship upon the respondent, provided that the safety of the victim and any family or household member remains the primary consideration.

§ 359. Domestic Violence Full Faith and Credit. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

Consistent with federal law codified at 18 U.S.C. § 2265, Michigan Court Rule 2.615, the Enforcement of Tribal Judgments, and Chapter X of the GTB Court Rules, the courts of the Grand Traverse Band shall honor and enforce domestic violence protection orders issued by other jurisdictions, including tribal, federal and state courts. Chapter X of the Tribal Court Rules obligates the Tribal Court to grant full faith and credit to judgments of other tribal courts, Michigan courts, and federal courts. The Tribe finds that federal law, 18 U.S.C. § 2265, requires state and tribal courts to honor protection orders entered by each court. Moreover, MCR 2.615 (Enforcement of Tribal Judgments) provides that judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts are recognized by all state courts of Michigan.

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SUBCHAPTER G
Special Domestic Violence Criminal Jurisdiction

§ 360. Definitions. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.][8]

(a) In this subsection:

(1) Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of-relationship, and the frequency of interaction between the persons involved in the relationship.

(2) Domestic Violence means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.

§ 361. Special Domestic Violence Criminal Jurisdiction. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on October 31, 2018; and technical amendment approved on December 19, 2018, at Tribal Council Regular Session.]

(a) Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed by 25 U.S.C. §§ 1301 and 1303, the powers of self-government of GTB as a participating tribe include GTB's inherent power as a federally recognized and affirmed Indian tribe, to exercise domestic violence criminal jurisdiction over all persons.

(b) Rights of defendants. In all proceedings in which the Tribal Court exercises special domestic violence criminal jurisdiction as a participating tribe, all rights afforded by GTB law and all those enumerated in the Indian Civil Rights Act, 25 U.S.C. §§ 1301 through 1304 shall apply to all defendants. In the event of any inconsistency, 25 U.S.C. § 1304 shall apply.

(c) Petitions to stay detention.

(1) The privilege of the writ of habeas corpus shall be available to any person to test the legality of his or her detention by order of the GTB and may petition the Tribal Court to stay further detention pending the habeas proceeding.

(2) A Court shall grant a stay if the Court:

(A) Finds that there is a substantial likelihood that the habeas corpus petition will be granted; and

(B) After giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the Court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

§ 362. Criminal Conduct Applicable. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on October 31, 2018; and amended by Tribal Council motion on November

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8. Editor's Note: This motion also provided for the renumbering of former § 359 as § 363.

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20, 2019, at a Tribal Council Regular Session.]

(a) The Grand Traverse Band may exercise special domestic violence criminal jurisdiction over a defendant for criminal conduct that falls into one or more of the following categories:

(1) Domestic violence and dating violence. An act of domestic violence or dating violence that occurs in GTB's Indian country.

(2) Violations of protection orders. An act that:

(A) Occurs in the GTB's Indian country; and

(B) Violates the portion of a protection order that:

(i) Prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;

(ii) Was issued against the defendant;

(iii) Is enforceable by GTB; and

(iv) Is consistent with 18 U.S.C. § 2265(b).

(b) Exceptions.

(1) Victim and defendant are both non-Indians.

(A) In general. The GTB may not exercise special domestic violence criminal jurisdiction over an alleged offense if neither the defendant nor the alleged victim is an Indian.

(B) Definition of victim. In this subsection and with respect to a criminal proceeding in which GTB exercises special domestic violence criminal jurisdiction based on a violation of a protection order, the term "victim" means a person specifically protected by a protection order that the defendant allegedly violated.

(2) Defendant lacks ties to GTB. The GTB may exercise special domestic violence criminal jurisdiction over a defendant only if the defendant:

(A) Resides in the Indian country of the GTB; or

(B) Is employed in the Indian country of the GTB; or

(C) Is a spouse, intimate partner, or dating partner of:

(i) A member of the GTB; or

(ii) An Indian who resides in the Indian country of the GTB.

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SUBCHAPTER H
HIV/AIDS Testing

§ 363. HIV Testing Provision for Victims of Domestic Violence. [History: Tribal Act #07-25.1862, enacted by Tribal Council on December 19, 2007; and amended by Tribal Council motion at a Tribal Council Special Session on October 31, 2018.]

(a) Victims of sexual assault or abuse.

(1) A victim of sexual assault or abuse may request Grand Traverse Band Tribal Court to order HIV/AIDS testing of the person who has allegedly committed the offense of sexual assault or abuse, providing the victim can demonstrate the following:

(A) The defendant has been charged with the offense in Grand Traverse Band Tribal Court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) The test for the causing agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) The test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Center for Disease Control, of the causing agent for acquired immune deficiency syndrome to the victim.

(2) If the test is ordered by Grand Traverse Band Tribal Court, the defendant will be tested not more than 48 hours from the incident or time of indictment.

(3) The defendant will be given appropriate referrals for testing and will be responsible for any costs incurred by the testing.

(4) The test results will be provided to the victim and the defendant.

(b) Follow-up.

(1) Follow-up testing may be ordered by Grand Traverse Band Tribal Court to occur six months and 12 months following the first test.

(2) If the charges are acquitted or dismissed against the defendant the follow-up testing will be suspended.

(c) Incompetence.

(1) If the victim is found to be incompetent, the guardian or legal caregiver may request HIV/AIDS testing for the victim.

(2) If the victim is found to be incompetent the guardian or legal caregiver will be provided with the test results along with the defendant.

(d) Confidentiality of Test: The results of any test ordered by the Grand Traverse Band Tribal Court shall be disclosed only to the victim or, where the Grand Traverse Band Tribal Court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to a medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack. Any such individual to whom the test results are disclosed by the victim

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shall maintain the confidentiality of such information.

(e) Disclosure The Grand Traverse Band Tribal Court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in Subsection (d). The contents of the Grand Traverse Band Tribal Court proceeding and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(f) Contempt for disclosure. Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.

(g) Non-Native Defendant. If the defendant is non-native the charging decision will be made by the state or federal authorities for investigation, and all state or federal laws regarding HIV/AIDS testing will apply.

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Chapter 4
Sex Offender Registration Code

§ 401. General Matters. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and amended by Tribal Council motion on January 31, 2018.]

(a) Title. This code shall be known as the "Sex Offender Registration Code."

(b) Purpose. The intent of this code is to implement the Federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

(c) Need. Violent crime in Indian Country is more than twice the national average. On some reservations it is 20 times the national average. An astounding 30% of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations are disproportionately affected by violent crime and sex offenses in particular from both Indian and non-Indian perpetrators; consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

(d) Intent. The GTB declares the intent of the Tribe is to use the tiering for sex offenders and sex offenses as provided in the State of Michigan Sex Offender Registration Act, Act 295 of 1994 (as amended).

(e) Creation of Registries.

(1) Sex Offender Registry. There is hereby established a sex offender registry, which the Michigan State Police (MSP), based on information provided by the Grand Traverse Band (GTB), and as documented by a cooperative agreement (Memorandum of Agreement) between MSP and GTB dated June 25, 2009, shall maintain and operate pursuant to the provisions of this code, as amended.

(2) Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the MSP/State of Michigan and the GTB shall maintain and operate pursuant to the provisions of this code, as amended.

§ 402. Terminology and Covered Offenses. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Definitions. The definitions below apply to this GTB Code only.

(1) Abscond. "Abscond" means failure to register and/or to leave, flee or depart quickly and secretly and hide oneself with intent to avoid arrest or prosecution.

(2) Convicted Adult Offender. An adult sex offender is "convicted" for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, regardless of how the conviction may be styled. This shall include but not be limited to convictions or juvenile adjudications in tribal, state, and federal courts.

(3) Convicted Juvenile Offender. A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:

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(A) Prosecuted and found guilty as an adult for a sex offense; or

(B) Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse [as described in either (a) or (b) of Section 2241 of Title 18, United States Code], or was an attempt or conspiracy to commit such an offense.

(4) Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 34 U.S.C. § 20922.

(5) Employee. The term "employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers, interns, externs, apprentices, and those providing community services of or for a tribal agency or organization are included within the definition of employee for registration purposes.

(6) Federal Offense. "Federal Offense" (including an offense prosecuted under Section 1152 or 1153 of Title 18 of the United States Code) under Section 1591, or Chapter 109A, 110 (other than Section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code.

(7) Foreign Convictions. A foreign conviction is one obtained outside of the United States.

(8) Homeless. "Homeless" means a person who does not have a permanent or temporary residence and who may have a temporary abode at the home of a family member or friend or at a shelter and is subject to the same registration requirements and is also required to verify their address daily with the GTBPD, even if that address is a bench on a specific street or a tent in a particular location or any such place where the sex offender frequents or stations himself during the day or sleeps at night.

(9) Immediate. "Immediate" and "immediately" mean within three business days.

(10) Imprisonment. The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail." Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of "house arrest."

(11) Jurisdiction. The term "jurisdiction" as used in this code refers to the 50 states, the District of Columbia, the five principal U.S. territories, i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe that elects to function as registration jurisdictions under SORNA § 127.

(12) Loiter. "Loiter" means standing or sitting idly whether in or out of a vehicle, or remaining in or around property, not their own, without permission and a legitimate reason.

(13) Minor. The term "minor" means an individual who has not attained the age of 18 years.

(14) National Sex Offender Registry (NSOR). The national database maintained by the Attorney General of the United States pursuant to 34 U.S.C. § 20921.

(15) Nonmember. "Nonmember" means a person who is not a member of any federally recognized

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Indian tribe.

(16) Other tribal member. "Other tribal member" means a person who is duly enrolled or is a member of a federally recognized Indian tribe other than the GTB Indian tribe.

(17) Primary address. "Primary address" is defined as the "mailing address" of the person's dwelling, including "physical location of the dwelling described with as much specificity as possible."

(18) Residence. The term "residence" means a place where a person is living or temporarily staying for more than five days, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

(19) Resides. The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps. "Residing on the reservations" shall mean any person who maintains a permanent or temporary residence, including students, temporary employees, and military personnel on assignment.

(20) School. "School" includes but is not limited to a building, facility, or room in a building or facility designated as a place for instruction, education, teaching, learning, or academics and is a public or private daycare, childcare facility, preschool, elementary school, secondary school, trade school, professional school, or institute of higher learning where teaching, training, supervision, recreation, and/or medical services for children of any age, for the disabled, or for the elderly, or anytime care given to preschool children or to school children after school or during vacation, as at a day care center, or to the elderly, as at a social agency.

(21) School Personnel. "School personnel" includes but is not limited to teachers, caregivers, the principal, or superintendent of schools, a member of the school board or employee or any entity working for, or rendering or exchanging any service or performing any act for or on behalf of the Tribe in any capacity full or part time.

(22) Secondary address. "Secondary address" is defined as a mailing address of any place where the person regularly or occasionally stays overnight, including the physical location of the place described with as much specificity as possible.

(23) Sexual Act. The term "sexual act" means:

(A) Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight.

(B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(C) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(24) Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate,

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harass, degrade, or arouse or gratify the sexual desires of another person.

(25) Sex Offender. A person convicted of a sex offense in any state, federal, tribal, or other court is a "sex offender."

(26) Sex Offender Registry. The term "sex offender registry" means the registry of sex offenders, and a notification program, maintained by GTB/State of Michigan.

(27) Sex Offense. The term "sex offense" refers to those offenses covered by the definition of "sex offense" appearing in SORNA § 111(5), and those offenses enumerated in Section 402(b) of this code or any other covered offense under federal, state or tribal law as stated in Title 9 of the GTB Code. "Sex Offense" generally means:

(A) A criminal offense that has an element involving a sexual act or sexual contact with another.

(B) A criminal offense that is a specified offense against a minor.

(C) A federal offense (including an offense prosecuted under Section 1152 or 1153 of Title 18 of the United States Code) under Section 1591, or Chapter 109A, 110 (other than Section 2257, 2257A, or 2258), or 117, or Title 18 of the United States Code.

(D) A military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note).

(E) An attempt or conspiracy to commit an offense described in Clauses (A) through (D); or

(F) Any tribal offense consistent with the above Clauses (A) through (E).

(28) SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 34 U.S.C. § 20945.

(29) SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248), 34 U.S.C. § 20911 et seq., as amended.

(30) "Specified Offenses Against a Minor" means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping;

(B) An offense (unless committed by a parent or guardian) involving false imprisonment;

(C) Solicitation to engage in sexual conduct;

(D) Use in a sexual performance;

(E) Solicitation to practice prostitution;

(F) Video voyeurism as described in Section 1801 of Title 18 of the United States Code;

(G) Possession, production, or distribution of child pornography;

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct; or

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(I) Any conduct that by its nature is a sex offense against a minor.

(31) Student. A "student" includes an intern, extern, and apprentice and is a person who enrolls in or attends either a private or public education institution, including a daycare, childcare facility, preschool, secondary school, trade, or professional school, or an institution of higher education.

(32) Transient. "Transient" means a person who lacks residence. A transient is subject to the same registration requirements and is also required to verify their address (city, county, township, and street) daily with the GTBPD, even if that address is a bench on a specific street or a tent in a particular location or any such place where the sex offender frequents or stations himself during the day or sleeps at night.

(33) GTB Tribal member. "GTB Tribal Member" means a person who is duly enrolled with the GTB Indian tribe pursuant to Article II of the Tribal Constitution.

(34) Tier I Sex Offender. A "Tier I sex offender," or a sex offender designated as Tier I is one that has been convicted of a Tier I sex offense as defined in Section 403(a) of this code.

(35) Tier II Sex Offender. A "Tier II sex offender," or a sex offender designated as Tier II is one that has been either convicted of a Tier II sex offense as defined in Section 403(b) of this code, or who is subject to the recidivist provisions of 403(b)(1).

(36) Tier III Sex Offender. A "Tier III sex offender," or a sex offender designated as Tier III is one that has been either convicted of a Tier III sex offense as defined in Section 403(c), or who is subject to the recidivist provisions of 403(c)(1) of this code.

(37) Tribal Lands. "Tribal Lands" includes "jurisdiction" and means the reservation, trust lands, tribal property owned by the tribal jurisdiction and other commonly known tribal lands within the primary jurisdiction in fee or trust regardless of location.

(38) Visitor. Any sex offender who does not live, work or attend classes as a student who enters onto a GTB reservation.

(b) Covered Offenses. Individuals who reside or are visiting on property within the exterior boundaries of tribal lands, regardless of location; are employed within tribal lands; or who attend school on tribal lands, that have been convicted of any of the following offenses, are subject to the requirements of this code:

(1) Michigan Offenses, Act 295 of 1994 (as amended):

(A) MCL 750.10a. Sexually delinquent person.

(B) MCL 750.145a. Accosting, enticing or soliciting child for immoral purposes.

(C) MCL 750.145b. Accosting, enticing or soliciting child for immoral purposes; second or subsequent offenses.

(D) MCL 750.145c. Child sexually abusive activity or material; offenses; penalties; application of section; affirmative defense; expert testimony; reporting by commercial film or photographic print processors; availability of evidence to defendants; local ordinances.

(E) MCL 750.145d. Internet use; restrictions, purpose of committing crime against minor.

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(F) MCL 750.158. Crime against nature or sodomy; penalty.

(G) MCL 750.335a. Indecent exposure.

(H) MCL 750.338. Gross indecency; between male persons.

(I) MCL 750.338a. Gross indecency; between female persons.

(J) MCL 750.338b. Gross indecency; between male and female persons.

(K) MCL 750.349b. Unlawful imprisonment.

(L) MCL 750.448 Soliciting and accosting.

(M) MCL 750.455. Pandering.

(N) MCL 750.349. Kidnapping.

(O) MCL 750.350. Kidnapping; child under 14.

(P) MCL 750.520b. Criminal sexual conduct in first degree.

(Q) MCL 750.520c. Criminal sexual conduct in second degree.

(R) MCL 750.520d. Criminal sexual conduct in third degree.

(S) MCL 750.520e. Criminal sexual conduct in fourth degree.

(T) MCL 750.520g. Assault with intent to commit criminal sexual conduct.

(U) MCL 750.539j. Surveillance, photographing, etc., of individual clad only in undergarments, genitalia or buttocks of individual, or unclad breasts of female under circumstances in which individual would have reasonable expectation of privacy; distribution, dissemination, or transmission of recording, photograph, or visual image obtained in violation of section; other offenses.

(2) Tribal offenses. Any tribal offense under a law of a tribal sovereign nation that is substantially similar to the offenses listed in the Michigan Sex Offenders Registration Act, Act 295 of 1994 (as amended).

(3) Federal Offenses. Any federal offense under a law of the United States specifically enumerated in 34 U.S.C. § 20911 that is substantially similar to the offenses listed in the Michigan Sex Offenders Registration Act, Act 195 of 1994 (as amended). A conviction for any of the following, and any other offense hereafter included in the definition of "sex offense" at 34 U.S.C. § 20911(5):

(A) 18 U.S.C. § 1591 (sex trafficking of children);

(B) 18 U.S.C. § 1801 (video voyeurism of a minor);

(C) 18 U.S.C. § 2241 (aggravated sexual abuse);

(D) 18 U.S.C. § 2242 (sexual abuse);

(E) 18 U.S.C. § 2243 (sexual abuse of a minor or ward);

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(F) 18 U.S.C. § 2244 (abusive sexual contact);

(G) 18 U.S.C. § 2245 (offenses resulting in death);

(H) 18 U.S.C. § 2251 (sexual exploitation of children);

(I) 18 U.S.C. § 2251A (selling or buying of children);

(J) 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor);

(K) 18 U.S.C. § 2252A (material containing child pornography);

(L) 18 U.S.C. § 2252B (misleading domain names on the Internet);

(M) 18 U.S.C. § 2252C (misleading words or digital images on the Internet);

(N) 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the U.S.);

(O) 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity);

(P) 18 U.S.C. § 2422 (coercion and enticement of a minor for illegal sexual activity);

(Q) 18 U.S.C. § 2423 [transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sexual conduct in foreign places (Mann Act)];

(R) 18 U.S.C. § 2424 (failure to file factual statement about an alien individual);

(S) 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

(4) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand that is substantially similar to the offenses listed in the Michigan Sex Offenders Registration Act, Act 295 of 1994 (as amended). A foreign conviction is not a sex offense for the purposes of this code unless it was either:

(A) Obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand; or

(B) Under the laws of any foreign country, when the United States' State Department, in its country reports on human rights practices and has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial, including ensuring sufficient safeguards for fundamental fairness and due process in that country during the year in which the conviction occurred.

(5) Offenses Involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than four years older than the victim.

(6) Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

(7) Juvenile Offenses or Adjudications. The term "convicted" or a variant thereof, used with respect

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to a sex offense includes adjudicated delinquent as juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and that offense adjudicated was comparable to or more severe than aggravated sexual abuse (as codified in 18 U.S.C. § 2241) or was an attempt or conspiracy to commit such an offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

(8) Jurisdiction Offenses. Any sex offense committed in any state, local and tribal jurisdictions, including this tribe that involves:

(A) Any type or degree of genital, oral, or anal penetration;

(B) Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;

(C) Kidnapping of a minor;

(D) False imprisonment of a minor;

(E) Solicitation to engage a minor in sexual conduct, understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct;

(F) Use of a minor in a sexual performance;

(G) Solicitation of a minor to practice prostitution;

(H) Possession, production, or distribution of child pornography;

(I) Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was below 18 years of age at the time of the offense;

(J) Any conduct that by its nature is a sex offense against a minor; or

(K) Any federal offenses similar to those outlined in Section 402(b)(3):

(i) 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion);

(ii) 18 U.S.C. § 1801 (video voyeurism of a minor);

(iii) 18 U.S.C. § 2241 (aggravated sexual abuse);

(iv) 18 U.S.C. § 2242 (sexual abuse);

(v) 18 U.S.C. § 2244 (abusive sexual contact);

(vi) 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution); or

(vii) 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).

§ 403. Tiered Offenses. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

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(a) Tier I Offenses.

(1) Sex Offenses. A Tier I offense includes an element involving a sexual act or sexual contact with another or any sex offense, for which a person has been convicted in a state, local, foreign, and/or tribal jurisdiction, or an attempt or conspiracy to commit such an offense that is not a Tier II or Tier III offense.

(2) Tribal Offenses. A Tier I offense includes an element involving a sexual act or sexual contact with another or any sex offense, for which a person has been convicted in a state, local, foreign, and/or tribal jurisdiction, or an attempt or conspiracy to commit such an offense under the tribal code that is not a Tier II or Tier III offense.

(3) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier I offense:

(A) 18 U.S.C. § 2252A (receipt or possession of child pornography);

(B) 18 U.S.C. § 2252B (misleading domain names on the Internet);

(C) 18 U.S.C. § 2252C (misleading words or digital images on the Internet);

(D) 18 U.S.C. § 2424 (failure to file factual statement about an alien individual); and

(E) 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

(4) Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in Section 403(a)(1), (2), or (3) shall be considered a Tier I offense.

(b) Tier II Offenses.

(1) Recidivism and Felonies. Unless otherwise covered by a Tier III offense, any sex offense that is not the first sex offense for which a person has been convicted in a state, local, foreign, and/or tribal jurisdiction, and is an offense punishable by more than one year imprisonment, is considered a Tier II offense.

(2) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier II offense:

(A) 18 U.S.C. § 1591 (sex trafficking by force, fraud or coercion);

(B) 18 U.S.C. § 2252A (production or distribution of material containing child pornography);

(C) 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit sexual conduct with a minor); and

(D) 18 U.S.C. § 2423(c) (engage in illicit conduct in foreign places).

(3) Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in Section 403(b)(1), (2), or (3) shall be considered a Tier II offense.

(c) Tier III Offenses.

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(1) Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a Tier II sex offense, or has previously become a Tier II sex offender, is a Tier III offense.

(2) General Offenses. A Tier III offense includes any sex offense for which a person has been convicted in a state, local, foreign, and/or tribal jurisdiction, or an attempt or conspiracy to commit such an offense that involves:

(A) Non-parental kidnapping of a minor;

(B) A sexual act with another by force or threat;

(C) A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate; or

(D) Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

(3) Offenses Involving Minors. A Tier III offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 402(b)(4) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography, or an attempt or conspiracy to commit such an offense that involves:

(A) The use of minors in prostitution, including solicitations;

(B) Enticing a minor to engage in criminal sexual activity;

(C) Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body;

(D) The use of a minor in a sexual performance; or

(E) The production or distribution of child pornography.

(4) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a Tier III offense:

(A) 18 U.S.C. § 1801 (video voyeurism of a minor);

(B) 18 U.S.C. § 2241 (aggravated sexual abuse);

(C) 18 U.S.C. § 2242 (sexual abuse);

(D) 18 U.S.C. § 2243 [sexual abuse of a minor or ward where the victim is 12 years of age or younger];

(E) 18 U.S.C. § 2244 [abusive sexual contact, victim under 13];

(F) 18 U.S.C. § 2245 (offenses resulting in death);

(G) 18 U.S.C. § 2251 (sexual exploitation of children);

(H) 18 U.S.C. § 2251A (selling or buying of children);

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(I) 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor);

(J) 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States);

(K) 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity);

(L) 18 U.S.C. § 2422(a) (coercion and enticement of a minor for illegal sexual activity); and

(M) 18 U.S.C. § 2423(a) (transportation of minors to engage in illicit conduct).

(5) Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in Section 403(c)(1), (2), or (3) shall be considered a Tier III offense.

§ 404. Registration, Verification and In Person Appearance Requirements. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) General Requirements.

(1) Duties. A sex offender covered by this code who is required to register with the Tribe pursuant to Chapter 4 shall provide all of the information detailed in this chapter to the GTBPD, which information is then transmitted to MSP pursuant to the cooperative agreement dated June 25, 2009; and the GTBPD shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the Tribe in accordance with this code and shall implement any relevant policies and procedures.

(2) Digitization. All information obtained under this code shall be, at a minimum, maintained by the MSP in a digitized format.

(3) Electronic Database. A sex offender registry shall be maintained in an electronic database by the MSP and shall be in a form capable of electronic transmission.

(b) Where Registration Is Required.

(1) Jurisdiction of Conviction. A sex offender must initially register with the Grand Traverse Band Tribal Court if the sex offender was convicted by the Tribal Court of a covered sex offense, regardless of the sex offender's actual or intended residency.

(2) Jurisdiction of Incarceration. A sex offender must register with the GTBPD if the sex offender is incarcerated by the Tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

(3) Jurisdiction of Residence. A sex offender must register with the GTBPD if the sex offender resides or is homeless or is a transient within tribal lands.

(4) Jurisdiction of Employment. A sex offender must register with the GTBPD if he or she is employed by the Tribe in any capacity or otherwise is employed within tribal lands.

(5) Jurisdiction of School Attendance. A sex offender must register with the GTBPD if the sex offender is a student in any capacity within tribal lands. A sex offender at any school within a jurisdiction is required to register with that jurisdiction.

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(6) Jurisdiction of Visitor. Prior to entering tribal lands, a visitor who is completing any sentence for a covered sex offense shall register with the GTBPD. Visitors are not required to register prior to patronizing the tribal gaming establishments or the Eagle Town Market, or to visiting the Tribal Court for a valid purpose.

(c) Timing of Registration.

(1) Timing. A sex offender required to register with the Tribe under this code shall do so in person and in the following timeframe:

(A) If convicted by the GTB for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration.

(B) If convicted by the GTB but not incarcerated, no later than 24 hours after sentencing for the registration offense.

(C) If a visitor has been convicted of a covered offense by the GTB or any other court, the visitor must register within 72 hours prior to entry onto tribal lands.

(D) For convictions in any other court, including, but not limited to convictions in state, federal, military or foreign courts, a sex offender must appear in person to register with the GTBPD, no later than 24 hours of establishing a residence, commencing employment, or becoming a student on tribal lands.

(E) If incarcerated in any tribal, state, federal, military or foreign jurisdiction, before release from imprisonment for the registration offense.

(2) Duties of GTBPD. The GTBPD or its designees shall have policies and procedures in place to ensure the following:

(A) That any sex offender incarcerated or sentenced by the Tribe for a covered sex offense completes their initial registration with the Tribe;

(B) Any sex offender initially registering with the Tribe is informed of their duties under SORNA and this code, and that such duties under SORNA and this code are explained to them;

(C) That the sex offender reads, or has read to them, and signs an Acknowledgement Form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement;

(D) That the sex offender is registered; and

(E) That upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(d) Retroactive Registration.

(1) Retroactive Registration. The GTB shall have in place, policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:

(A) Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex

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offense or other crime.

(B) Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Tribe's laws.

(C) Sex offenders reentering the justice system due to conviction for any crime.

(2) Timing of Recapture. The GTB shall ensure recapture of the sex offenders mentioned in Section 404(a)(1) within the following timeframe to be calculated from the date of passage of this code:

(A) For Tier I sex offenders, one year.

(B) For Tier II sex offenders, 180 days.

(C) For Tier III sex offenders, 90 days.

(e) Changes in Information/Keeping Registration Current.

(1) Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall, within 24 hours, appear in person at the GTBPD to update any changes to their name, primary or secondary residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall, within 24 hours, inform the GTBPD in person of any changes to their temporary lodging information, vehicle information, Internet identifiers, email addresses, instant message addresses, and any other designations used in Internet communications, postings, or telephone communications or numbers. In the event of a change in temporary lodging, the sex offender and the GTBPD shall, within 24 hours, notify the jurisdiction in which the sex offender will be temporarily staying.

(2) Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within tribal lands, regardless of location, that changes their school, or otherwise terminates their schooling shall, within 24 hours, appear in person at the GTBPD to update that information. The GTBPD shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, is immediately notified of the change.

(3) Jurisdiction of Employment. Any sex offender who is employed by the Tribe in any capacity or otherwise is employed within tribal lands, regardless of location, that changes their employment, or otherwise terminates their employment shall, within 24 hours, appear in person at the GTBPD to update that information. The GTBPD shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, is immediately notified of the change.

(4) Jurisdiction of Visitor. A sex offender must register with the GTBPD if the sex offender is visiting tribal lands while completing any sentence for a covered sex offense.

(5) Duties of the GTBPD. With regard to changes in a sex offender's registration information, the GTBPD shall provide immediate notification to the State of Michigan/MSP, who shall notify consistently with the MOA dated June 25, 2009.

(A) All jurisdictions where a sex offender intends to reside, work, or attend school.

(B) Any jurisdiction where the sex offender is either registered or required to register.

(C) Specifically, with respect to information relating to a sex offender's intent to commence

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residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The GTBPD shall also ensure this information is immediately updated with the MSP.

(f) Failure to Appear and Register and Absconding.

(1) Failure to Appear and Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to register with the Tribe, as required by this code, the GTBPD shall take all appropriate follow-up measures, including those outlined in Section 404(f), and shall first make an effort to determine if the sex offender is actually employed or attending school in lands subject to the Tribe's jurisdiction. The GTBPD shall immediately inform the jurisdiction which provided notification to the Tribe of the sex offender's proposed commencement of residency, employment, or school attendance that the sex offender failed to appear for registration with the Tribe.

(2) Absconded Sex Offender. If the GTBPD receives information that a sex offender has absconded, the GTBPD shall make an effort to determine if the sex offender has actually absconded.

(A) In the event no determination can be made, the GTBPD shall ensure the appropriate law enforcement agency is notified.

(B) If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the GTBPD shall be informed that the sex offender had failed to appear and register.

(C) If an absconded sex offender cannot be located, then the GTBPD shall take the following steps:

(i) Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located;

(ii) Notify the U.S. Marshals Service;

(iii) Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest;

(iv) Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and

(v) Enter the sex offender into the National Crime Information Center Wanted Person File.

(g) Frequency and Duration of Registration Periods.

(1) Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the GTBPD for purposes of verification and keeping their registration current in accordance with the following time frames:

(A) For Tier I offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(B) For Tier II offenders, once every 180 days for 25 years from the time of release from

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custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(C) For Tier III offenders, once every 90 days for the rest of their lives.

(h) Requirements For In Person Appearances and Address Verification.

(1) Requirements. A sex offender who is required to appear "in person" shall comply with the following:

(A) Photographs. At each in person verification, the sex offender shall permit the GTBPD to take a photograph of the offender.

(B) Review of Information. At each in person verification, the sex offender shall review existing information for accuracy.

(C) Notification. If any new information or change of information is obtained at an in person verification, the GTBPD shall immediately notify the MSP pursuant to the MOA dated June 25, 2009.

(2) Address Verification. A sex offender who is required to register shall register at the local jurisdiction in person according the following schedule:

(A) Tier I offenders must verify their address once a year during the month of their birth.

(B) Tier II offenders must verify their address two times per year based on the schedule below:

Birthday Month	Reporting Months
January	January and July
February	February and August
March	March and September
April	April and October
May	May and November
June	June and December
July	January and July
August	February and August
September	March and September
October	April and October
November	May and November
December	June and December

(C) Tier III offenders must verify their address four times per year based on the schedule below:

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Birthday Month	Reporting Months
January	January, April, July, and October
February	February, May, August, and November
March	March, June, September, and December
April	January, April, July, and October
May	February, May, August, and November
June	March, June, September, and December
July	January, April, July, and October
August	February, May, August, and November
September	March, June, September, and December
October	January, April, July, and October
November	February, May, August, and November
December	March, June, September, and December

(D) Homeless. A sex offender who is homeless or transient shall verify the address (city, county, township, and street) daily with the GTBPD, even if that address is a temporary abode at the home of a family member or friend or at a shelter or a bench on a specific street or a tent in a particular location or any such place where the sex offender frequents or stations himself during the day or sleeps at night.

(i) Mandatory Disclosure.

(1) A sex offender who volunteers for an organization where volunteers have direct, private and unsupervised contact with minors shall notify the organization of the sex offender's conviction at the time of signing up to volunteer. Such notification must be in writing to GTB or its enterprises. GTB or its enterprises which accepts volunteers must notify volunteers of this disclosure requirement upon application of the volunteer to serve or prior to acceptance of any of the volunteer's service, whichever comes first.

(2) If GTB or its enterprises, after notification by the sex offender, as provided in Section 404(i)(1), accepts the sex offender as a volunteer, GTB or its enterprises must notify the parents or guardians of any minors involved in GTB or its enterprises of the sex offender's criminal record.

(3) Any person required to register must disclose regardless of the date of conviction.

(4) If a registered sex offender is currently volunteering for GTB or its enterprises, the sex offender must resign or notify GTB or its enterprises immediately upon receipt of notice.

§ 405. Required Information. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Criminal History.

(1) Criminal History. The GTBPD shall obtain, and a covered sex offender shall provide, the

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following information related to the sex offender's criminal history:

(A) The date of all arrests;

(B) The date and place of all convictions, adjudication or acquittal by reason of insanity;

(C) The sex offender's status of parole, probation, or supervised release;

(D) The sex offender's registration status; and

(E) Any outstanding arrest warrants.

(b) Date of Birth.

(1) Date of Birth. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

(A) The sex offender's actual date of birth; and

(B) Any other date of birth used by the sex offender.

(c) DNA Sample.

(1) DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the GTBPD a sample of his DNA.

(2) CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

(d) Driver's Licenses, Identification Cards, Passports, and Immigration Documents.

(1) Driver's License. The GTBPD shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.

(2) Identification Cards. The GTBPD shall obtain, and a covered sex offender shall provide, a photocopy of any identification card, including the sex offender's tribal enrollment card, issued by any jurisdiction.

(3) Passports. The GTBPD shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

(4) Immigration Documents. The GTBPD shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

(e) Employment Information.

(1) Employment. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is or will be employed in any means, including volunteer and unpaid positions:

(A) The name of the sex offender's employer;

(B) The address of the sex offender's employer; and

(C) Similar information related to any transient or day labor employment.

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(f) Finger and Palm Prints.

(1) Finger and Palm Prints. The GTBPD shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

(g) Internet Identifiers.

(1) Internet Names. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's Internet related activity:

(A) Any and all email addresses used by the sex offender;

(B) Any and all Instant Message addresses and identifiers;

(C) Any and all other designations or monikers used for self-identification in Internet communications or postings; and

(D) Any and all designations used by the sex offender for the purpose of routing or self-identification in Internet communications or postings.

(h) Name.

(1) Name. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

(A) The sex offender's full primary given name;

(B) Any and all nicknames, aliases, and pseudonyms regardless of the context in which they are used; and

(C) Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

(i) Phone Numbers.

(1) Phone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

(A) Any and all land line telephone numbers; and

(B) Any and all cellular telephone numbers.

(j) Picture.

(1) Photograph. The GTBPD shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.

(2) Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:

(A) Every 90 days for Tier III sex offenders;

(B) Every 180 days for Tier II sex offenders; and

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(C) Every year for Tier I sex offenders.

(k) Physical Description.

(1) Physical Description. The GTBPD shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

(A) A physical description;

(B) A general description of the sex offender's physical appearance or characteristics; and

(C) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

(l) Professional Licensing Information.

(1) Professional Licenses. The GTBPD shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(m) Residence Address.

(1) Address. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

(A) The address of each residence at which the sex offender resides or will reside; and

(B) Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address, even if that address is a temporary abode, at the home of family members or friends or at a shelter or a bench on a specific street or a tent in a particular location or any such place where the sex offender frequents or stations himself during the day or sleeps at night.

(n) School.

(1) School Location. The GTBPD shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

(A) The address of each school where the sex offender is or will be a student, or is employed (with or without compensation), carries on a vocation; and

(B) The name of each school at which the sex offender is or will be a student or employed.

(o) Social Security Number.

(1) Social Security. The GTBPD shall obtain, and a covered sex offender shall provide, the following information:

(A) A valid social security number for the sex offender; and

(B) Any social security number the sex offender has used in the past, valid or otherwise.

(p) Temporary Lodging.

(1) Lodging Information. The GTBPD shall obtain and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for three days or

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more:

(A) Identifying information of the temporary lodging locations, including addresses and names;

(B) The dates the sex offender will be staying at each temporary lodging location; and

(C) Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than three days, the GTBPD shall immediately notify the State of Michigan/MSP, who shall immediately provide this information to INTERPOL consistent with the MOA dated June 25, 2009.

(q) Offense Information.

(1) Offense Information. The GTBPD shall obtain and a covered offender shall provide:

(A) The text of each provision of law defining the criminal offense(s) for which the sex offender is registered;

(B) A brief description of the offense for which the registration is required;

(C) The text of each provision of law mentioned in Section (q)(1)(A) shall be cross-linked to the SORNA databases containing the text of relevant sex-related laws for all jurisdictions;

(D) Criminal offense history, including a copy of all sex offense judgments, criminal offense dates, age and gender of victim, and probation, parole or other release status and terms and contact information for supervisory group;

(E) Documentation of any treatment received or any mental abnormality or personality disorder of the person; and

(F) Any other information deemed necessary.

(r) Vehicle Information.

(1) Detailed Information. The GTBPD or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned, registered to, or operated by the sex offender for work or personal use, including land vehicles, aircraft, and watercraft:

(A) License plate numbers;

(B) Registration numbers or identifiers;

(C) General description of the vehicle(s), to include color, make, model, and year; and

(D) Any permanent or frequent location where any covered vehicle is kept.

§ 406. Zones of Restriction. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Prohibition Against Sex Offender Being Present on or Within a Certain Distance of School Building or School Property.

(1) Unless exempted under Subsection (a)(2), it is unlawful for a person required to register as a sex

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offender under this code:

(A) To be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance; or

(B) To loiter or work within 300 feet of a school building or real property comprising any school.

(2) A person required to register as a sex offender who is a parent or guardian of a student attending the school and who complies with Subsection (2)(H) may be present on school property if the parent or guardian is:

(A) Attending a conference at the school with school personnel to discuss the progress of the sex offender's child academically or socially;

(B) Participating in child review conferences in which evaluation and placement decisions may be made with respect to the sex offender's child regarding special education services;

(C) Attending conferences to discuss other student issues concerning the sex offender's child, such as retention and promotion;

(D) Transporting the sex offender's child to and from school; or

(E) Present at the school because the presence of the sex offender had been requested by the principal for any other reason relating to the welfare of the child.

(F) Subsection (1) of this section shall not apply to a sex offender who is legally enrolled in a particular school or is participating in a school-sponsored educational program located at a particular school when the sex offender is present at that school.

(G) In order to exercise the exemption under Subsection (2)(H), a parent or guardian who is required to register as a sex offender must notify the principal of the school of the sex offender's presence at the school unless the offender:

(i) Has written permission to be present from the superintendent or the school board; or

(ii) The principal has granted ongoing permission, in writing, for regular visits of a routine nature.

(H) If permission is granted by the superintendent or the school board, the superintendent or school board president must inform the principal of the school where the sex offender will be present in the school and the sex offender is responsible for notifying the principal's office upon arrival and upon departure. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(I) Nothing in this section shall be construed to infringe upon the constitutional right of a sex offender to be present in a school building that is used as a polling place for the purpose of voting.

(b) Prohibition of Offenders Residing Within 300 feet of a School or Day Care.

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(1) Any person, who has been classified as a sex offender, shall not reside within 300 feet of any school or day care which is in existence at the time the individual begins to reside at the location.

(2) If such sex offender has already established a residence and a school or day care is subsequently built or placed within 300 feet of such person's residence, then such person shall, prior to one week of the opening of such school, notify the Department of Public Safety where such school is located that he or she is now residing within 300 feet of such school and shall provide verifiable proof to the Department of Public Safety that he or she resided there prior to the opening of such school.

(3) Restrictions and prohibitions in the above subsections do not apply to an offender already residing within a school or day care restricted zone prior to the enactment and effective date of the GTB SORNA Code, or an offender who is incarcerated or is at a facility within the zone, or worked within the student safety zone prior to the effective date and offenders who intermittently or sporadically enter a zone for the purposes of work. All registered sex offenders convicted prior to enactment of the GTB SORNA Code AND still living within a restricted zone may not initiate or maintain contact with minors in the restricted zone.

§ 407. Public Sex Offender Registry Website. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Website.

(1) Website. The GTBPD shall use and maintain a public sex offender registry website.

(2) Links. The GTBPD registry website shall include links to sex offender safety and education resources.

(3) Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

(4) Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

(5) Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and (3) zip code and/or geographic radius.

(6) Dru Sjodin National Sex Offender Public Website. The Tribe shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

(b) Required and Prohibited Information.

(1) Required Information. The following information shall be made available to the public on the sex offender registry website:

(A) Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;

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(B) All sex offenses for which the sex offender has been convicted;

(C) The sex offense(s) for which the offender is currently registered;

(D) The address of the sex offender's employer(s);

(E) The name of the sex offender, including all aliases;

(F) A current photograph of the sex offender;

(G) A physical description of the sex offender;

(H) The residential address and, if relevant, a description of a habitual residence of the sex offender;

(I) All addresses of schools attended by the sex offender; and

(J) The sex offender's vehicle license plate number along with a description of the vehicle.

(2) Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

(A) Any arrest that did not result in conviction;

(B) The sex offender's social security number;

(C) Any travel and immigration documents;

(D) The identity of the victim; and

(E) Internet identifiers (as defined in 34 U.S.C. § 20911).

(3) Witness Protection. For sex offenders who are under a witness protection program, the tribal police may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

§ 408. Publications and Community Notifications. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Mandatory Publication and Notification.

(1) Within 24 hours of a sex offender registering or updating their information, the GTBPD shall disclose the name, address or location; most recent photograph, if available; date of photograph; place of employment; address of school attended; vehicle description and license plate numbers; crime for which convicted; date and place of conviction of any registrant; hair color; height; race; sex and age of any registrant; and any other information deemed necessary for the protection of the public to the MSP pursuant to the MOA dated June 25, 2009, and:

(A) Each school, public housing agency, and community center in each area in which the sex offender resides, is an employee, or is a student;

(B) Social service entities responsible for protecting minors in the child welfare system, and any agency, department, or program within the Tribe that is responsible for criminal

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investigations, prosecution, child welfare or sex offender supervision functions, including, but not limited to, police whether BIA, tribal, or FBI, tribal prosecutors and tribal probation;

(C) Volunteer organizations in which contact with minors or other vulnerable individuals might occur;

(D) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction, and any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction, and any agency, department, or program within the Tribe that is responsible for criminal investigations, prosecution, child welfare or sex offender supervision functions, including, but not limited to, police whether BIA, tribal, or FBI, tribal prosecutors and tribal probation;

(E) To the registering authority or any jurisdiction in which a sex offender plans on residing, working, or going to school;

(F) Any jurisdiction which notified the GTBPD of an area in which it is the sex offender's intent to reside, work, or go to school on GTB tribal lands who fails to register pursuant to this code; and

(G) Any qualified entity pursuant to the National Child Protection Act of 1993, pursuant to Section 5119a of Title 42 of the United States Code.

(b) Publication to National Sex Offender Registry. Within three business days, the GTBPD shall provide all such information as required to the State of Michigan/MSP, who shall notify consistently with the MOA dated June 25, 2009. For any database that is not required, the GTBPD may, in its discretion, provide information.

(c) Publication to Other Law Enforcement Agencies. Within three business days, the GTBPD shall produce all registrant information to the appropriate law enforcement agency and probation agency, if appropriate, in each area in which the sex offender resides, is an employee, or is a student. Online access of all registrant information is considered sufficient access.

(d) Public and Community Notifications.

(1) The Department of Public Safety may release to any person, entity, or organization, upon a written request, the name, address or location; most recent photograph, if available; date of photograph; place of employment; address of school attended; vehicle description and license plate numbers; crime for which convicted; date and place of conviction of any registrant; hair; eye color; height; race; sex and age of any registrant; and any other information deemed necessary for the protection of the public. Additionally, the department may utilize an Internet web site or other electronic means to release the information. Further:

(A) Individuals may obtain, for a fee, a list of registered sex offenders from the GTBPD, by following the provisions and procedure outlined in GTB's Records Ordinance, 2 GTBC § 401.

(B) The Tribe may, at its discretion, publish names and/or pictures of all registered sex offenders in local media.

(C) Records maintained pursuant to this chapter shall be open to law enforcement agencies

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which shall be authorized to release relevant and necessary information regarding sex offenders to the public.

(D) Information disclosed pursuant to this subsection shall not include information that would identify the victim.

(E) Any release of information under this section will be accompanied by the following:

WARNING
This information is made available for the purpose of protecting the public. It is not to be used for the purpose of harassing or intimidating anyone. A person who uses registry information to commit a criminal act against another person is subject to arrest and prosecution under the GTB Tribal Code.

(2) Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the GTBPD shall:

(A) Immediately notify the MSP pursuant to the MOA dated June 25, 2009, as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases.

(B) Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including, but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.

(C) Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.

(D) Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a) when a sex offender registers or updates registration.

(3) Community Notification. The GTBPD or its designee shall ensure there is an automated community notification process in place that ensures the following:

(A) Upon a sex offender's registration or update of information with the Tribe, the Tribe's public sex offender registry website is immediately updated.

(B) The Tribe's public sex offender registry has a function that enables the general public to request an e-mail notice when a sex offender commences residence, employment, or school attendance with the Tribe; within a specified zip code; or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

§ 409. Immunity. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Immunity and Good Faith.

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(1) No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the GTB, its departments, agencies, employees, or agents.

(2) Good faith. Any government employee acting in good faith under this code shall be immune from any civil liability arising out of such actions.

§ 410. Criminal and Civil Sanctions. [History: Tribal Act #10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Penalties and Sanctions.

(1) Criminal penalty. Each violation of a provision of this code by a sex offender who is a Native American shall be considered a crime and subject to a period of incarceration of up to one year and/or a fine of up to $5,000.

(2) Criminal Sanctions:

(A) Failure to register. Any person required to register under this code within the time specified under this code shall be guilty of an offense punishable by up to one year and/or a fine of up to $5,000.

(B) Providing false or misleading registration information. Any person required to register under this code who knowingly provides false or misleading information required under Section 405 shall be guilty of an offense up to one year and/or a fine of up to $5,000.

(C) Failure to update registration information. Any person required to register under this code who fails to update their registration information in violation of Section 404(e) shall be guilty of an offense punishable by up to one year and/or a fine of up to $5,000.

(D) Failure to appear for periodic registration. Any person required to appear for periodic in person verification under Section 404(f) and fails to comply, shall be guilty of an offense punishable by up to one year and/or a fine of up to $5,000.

(E) Violation of school zone of restriction. Any sex offender who violates Section 406 is guilty of an offense punishable by one year in jail and/or a $5,000 fine.

(F) Violation of residency restrictions. Any sex offender who violates Section 406(b) is guilty of an offense punishable by up to one year and/or a fine of up to $5,000.

(G) Hindrance of Sex Offender Registration. A person is guilty of an offense if he or she:

(i) Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this code;

(ii) Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this code; or

(iii) Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.

(H) Misuse of Registration Information.

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(i) Any person who willfully misuses or alters public record information relating to a sex offender or sexual predator, or a person residing or working at an address reported by a sex offender, including information displayed by law enforcement agencies on websites, shall be guilty of an offense punishable by 93 days in jail or a $500 fine.

(ii) The sale or exchange of sex offender information for profit is prohibited. Any violation of this Subsection (ii) is an offense punishable by 93 days in jail or a $500 fine.

(I) Repeat Offenders. Any second or subsequent violation under this code occurring within the mandatory registration period shall be an offense punishable by one year in jail or a $5,000 fine.

(J) Civil Penalty. Each violation of a provision of this code by a sex offender who is not a Native American shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to, the issuance of fines, forfeitures, civil contempt.

§ 411. Exclusion. [History: Tribal Act # 10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

(a) Nonmember Exclusion.

(1) Any nonmember convicted of a Tier III sex offense shall no longer be entitled to reside on tribal lands pursuant to Tribal Council's authority vested in GTB Constitution, Article IV, § 1(g), and shall be excluded from tribal lands pursuant to this code. The exclusion order shall contain the following exceptions:

(A) To answer a summons or subpoena by the GTB Tribal Court.

(B) To be a defendant in any GTB Tribal Court.

(C) To attend the funeral service only of immediate family members, which is limited to one hour prior to and one hour post funeral service.

(D) To accompany, because of a legal duty, a person or minor who is eligible to receive medical services, including but not limited to Indian Health Services, performed at the Medicine Lodge or other building by the GTB Health Administration.

(2) Any nonmember sex offender who is excluded from the reservation and, who must return pursuant to an exception listed above, must notify the GTBPD no less than one business day prior to their return to tribal lands and disclose their exception purpose.

(3) Any nonmember sex offender who is excluded from the reservation and, who must return pursuant to an exception listed above, has the duty to remain under the direct supervision of tribal authorities or an appointed or an accepted escort.

* Nonmember: "Nonmember" means a person who is not a member of any federally recognized Indian tribe.

(b) Other Tribal Member Exclusion.

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(1) Any other tribal member convicted of a Tier III sex offense shall no longer be entitled to reside on tribal lands pursuant to Tribal Council's authority vested in GTB Constitution, Article IV, § 1(g), and shall be excluded from tribal lands pursuant to this code. The exclusion order shall contain the following exceptions:

(A) To answer a summons or subpoena by the GTB Tribal Court.

(B) To be a defendant in any GTB Tribal Court.

(C) To attend the funeral service only of immediate family members, which is limited to one hour prior to and one hour post funeral service.

(D) To receive medical services, including but not limited to Indian Health Services, performed at the Medicine Lodge or other building by the GTB Health Administration.

(E) To accompany, because of a legal duty, a person or minor who is eligible to receive medical services, including but not limited to Indian Health Services, performed at the Medicine Lodge or other building by the GTB Health Administration.

(2) Any other tribal member sex offender who is excluded from the reservation and, who must return pursuant to an exception listed above, must notify the GTBPD no less than one business day prior to their return to tribal lands and disclose their exception purpose.

(3) Any other tribal member sex offender who is excluded from the reservation and, who must return pursuant to an exception listed above, has the duty to remain under the direct supervision of tribal authorities or an appointed or an accepted escort.

* Other tribal member: "Other tribal member" means a person who is duly enrolled or is a member of a federally recognized Indian tribe other than the GTB Indian tribe.

(c) (Reserved)[9]

(d) Gaming Exception. The exclusions and requirements listed in Subpart (a) for nonmembers, Subpart (b) for other tribal members and Subpart (c) for GTB Tribal members does not apply to the gaming floors owned and operated by the Grand Traverse Band.

§ 412. Savings Clause. [History: Tribal Act # 10-28.2164, enacted by Tribal Council on July 21, 2010. As amended by Tribal Council motion on October 29, 2014; and by Tribal Council motion on January 31, 2018.]

If any court of competent jurisdiction finds that any section, subsection, or phrase of this code violates the Constitution or laws of the GTB, such standalone part will be deleted from the statute and, so long as the intent remains intact, the remainder of the statute will take full force and effect.

9. Editor's Note: Former Subsection (c), GTB Tribal Member Exclusion, was repealed by Tribal Act # 12-30.2350, enacted by Tribal Council on 3-21-2012, retroactively from the date of enactment by Tribal Act #10-28.2164 (7-21-2010).

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Chapter 5
Crime Victims' Rights

§ 501. Definitions. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on May 29, 2019.]

(a) "Crime Victim" means a person directly and proximately harmed as a result of the commission of an offense under the laws of the Grand Traverse Band. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

(b) "Multidisciplinary Child Abuse Team" means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse.

§ 502. Rights of Crime Victims.

A crime victim has the following rights:

(a) The right to be reasonably protected from the accused.

(b) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.

(c) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

(d) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

(e) The reasonable right to confer with the attorney for the government in the case.

(f) The right to full and timely restitution as provided in law.

(g) The right to proceedings free from unreasonable delay.

(h) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(i) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.

(j) The right to be informed of the rights under this section and any services offered by GTB. **[History: Enacted by Tribal Council motion at a Tribal Council Special Session on May 29, 2019.]**

§ 503. Rights Afforded. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on May 29, 2019.]

In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in Section 502. Before making a determination described in Section 502(c), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons

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for any decision denying relief under this chapter shall be clearly stated on the record.

§ 504. Best Efforts to Accord Rights. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on May 29, 2019.]

(a) Government. Officers and employees of the Office of the Prosecutor, Public Safety, and other GTB departments and agencies engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in Section 502.

(b) Advice of Attorney. The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in Section 502.

(c) Notice. Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

§ 505. Enforcement and Limitations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on May 29, 2019.]

(a) Rights. The crime victim or the crime victim's lawful representative, and the attorney for the government may assert the rights described in Section 502. A person accused of the crime may not obtain any form of relief under this chapter.

(b) Multiple Crime Victims. In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in Section 502, the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

(c) Motion for Relief and Writ of Mandamus. The rights described in Section 502 shall be asserted in the Tribal Court. The court shall immediately take up and decide any motion asserting a victim's right. If the court denies the relief sought, the movant may petition the GTB Appellate Court for a writ of mandamus. The Appellate Court may issue the writ on the order of a single judge pursuant to GTB Court Rules. The Appellate Court shall take up and decide such application within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the Appellate Court denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

(d) Error. In any appeal in a criminal case, the government may assert as error the court's denial of any crime victim's right in the proceeding to which the appeal relates.

(e) Limitation on Relief. In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if:

(1) The victim has asserted the right to be heard before or during the Proceeding at issue and such right was denied; and

(2) The victim petitions the Appellate Court for a writ of mandamus within 10 days.

(f) No Cause of Action. Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Grand Traverse Band or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the prosecutor or any officer under his direction.

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Authority of Grand Traverse Band, MI

§ 506. Services for Children Who Are Victims or Witnesses.

(a) Purpose. GTB recognizes that intergenerational trauma is perpetuated when children are victims or witnesses of crimes of violence. In an effort to end the cycle of intergenerational trauma and victimization, GTB supports the nurturing and protecting of children who are victims or witnesses to the greatest extent possible.

(b) In General. A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with GTB departments, external entities, and state and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the Government shall consult with the multidisciplinary child abuse team as appropriate.

(c) Role of Multidisciplinary Child Abuse Teams. The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including:

(1) Medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

(2) Telephone consultation services in emergencies and in other situations;

(3) Medical evaluations related to abuse or neglect;

(4) Psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

(5) Expert medical, psychological, and related professional testimony;

(6) Case service coordination and assistance, including the location of services available from public and private agencies in the community; and

(7) Training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

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GRAND TRAVERSE BAND CODE

Title 10

CHILDREN, FAMILIES & ELDERS

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CHAPTER 1
Children's Code Revised

§ 101. Short Title, Purpose and Definition. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Short Title. This Code shall be entitled "The Revised Children's Code."

(b) Purpose. The Children's Code shall be liberally interpreted and construed to fulfill the following expressed purposes:

(1) To provide for the welfare, care and protection of the children and families within the jurisdiction of the Grand Traverse Band of Ottawa and Chippewa Indians;

(2) To preserve the unity of the family, preferably by separating the child from his or her parents only when necessary;

(3) To take such actions that will best serve the spiritual, emotional, mental, and physical welfare of the child and the best interest of the Tribe to prevent the abuse, neglect and abandonment of children;

(4) To provide a continuum of services for children and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community based alternatives;

(5) To secure the rights of and ensure fairness to the children, parents, guardians, custodians and other parties who come before the Children's court under the provisions of this Code;

(6) To provide procedures for intervention in state court procedures regarding Indian children and for transfer of jurisdiction over Indian children from state and other tribal courts to this Tribal Court;

(7) To ensure compliance with all applicable federal laws and to provide a reasonable means by which cross- jurisdictional judgments and orders may be enforced with full faith and credit.

(8) To recognize and acknowledge the tribal customs and traditions of the Grand Traverse Band regarding child-rearing;

(9) To preserve and strengthen the child's cultural and identity whenever possible and to protect the sovereignty of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 102. Definitions. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, as enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603, enacted by Tribal Council on March 29, 2006; and amended by Tribal Council motion, enacted on July 27, 2016.]

As used in this Code:

(a) "Adult": A person 18 years of age or older or a person under the age of 18 who has been emancipated by order of a court of competent jurisdiction.

(b) "Aggravated Circumstances": Incidents of abuse or neglect perpetrated upon a child which

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demonstrate such depraved indifference to the health and wellbeing of children, and the community's standards for the care of children, that reunifications efforts are deemed inappropriate and termination of parental rights may be immediately sought by petition. Aggravated circumstances shall include: the use of a weapon in an act of child abuse, abandonment of a child, addiction at birth, conviction of homicide, sexual abuse of a child or physical abuse which results in permanent injury to, the maiming or death of a child.

(c) "Anishinaabek Family Service": The Tribal agency responsible for administering the protective services provided for in this Children's Code, including but not limited to, investigating reports of abuse or neglect, planning and implementing reunification efforts, placement, monitoring family progress, permanency planning and serving as the representative services agency of the GTB government in all actions involving member children within other jurisdictions.

(d) "Best Interests of the Child": As used in this Code, the sum total of the following factors to be considered, evaluated, and determined by the Court:

(1) The love, affection, and other emotional ties existing between the parties involved and the child.

(2) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.

(3) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this Tribe in place of medical care, and other material needs.

(4) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(5) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(6) The moral fitness of the parties involved including the criminal history of any person living in the same household as the minor child.

(7) The mental and physical health of the parties involved.

(8) The home, school, and community record of the child.

(9) The reasonable preference of the child, if the Court considers the child to be of sufficient age to express preference.

(10) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.

(11) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(12) Any other factor considered by the Court to be relevant to a particular child custody dispute.

(13) The willingness to provide the child with a strong cultural identity and to expose the child to the customs, values and mores that may form the child's cultural.

(e) "Child": A person under the age of 18 who has not been emancipated by order of a court of competent

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jurisdiction.

(f) "Child Abuse": Includes but is not limited to:

(1) Any case in which:

(A) The death of a child has occurred due to, or a child exhibits evidence of, skin bruising, bleeding, malnutrition, failure to thrive, burns, fractures of any bone, head or spinal injury, soft tissue swelling; and

(B) Such condition is not reasonably explainable as due to accident or illness; or medically deemed not likely to be the result of an accident or illness; and

(2) A child is or has been subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution or exposure to other sexually inappropriate behavior of an adult in the presence of a child.

(3) A child is, or may be placed at risk of sexual assault, molestation, contact or sexually inappropriate contact by prolonged or unrestricted contact with a person who has been convicted of a crime of sexual misconduct.

(4) The gross or intentional neglect of child's basic needs including but not limited to the provision of food, clothing, shelter, medical care and education to the degree that the child's development has been or is likely to be significantly adversely affected, or in which a child manifests severe physical or emotional pathology as a direct result of prolonged or severe neglect.

(5) Children are left without proper supervision for prolonged periods or in conditions or in a manner resulting in or likely to result in physical harm to the child.

(g) "Child Born Out Of Wedlock": A child conceived and born to a woman who is unmarried from the conception to the birth of the child, or a child determined to have been conceived or born during a marriage but who is not the issue of that marriage, or a child who has not been legally adopted by any person.

(h) "Child Neglect": Includes, but is not limited to, Intentional or unintentional negligent treatment or maltreatment of a child, by act or omission, by any person including one who is responsible for the child's health, welfare and/or safety under circumstances which indicate that the child is at risk for physical, emotional or developmental harm.

(i) "Custodial Interference": Any action which obstructs the reasonable exercise of dominion and control over the life of child by that child's lawful custodian.

(j) "Custody": Dominion and control over the daily life of a child conducted in the best Interests of the child.

(k) "Dependent Child" is one:

(1) For whom no adult person has the legal authority and responsibility to assume care and control over the child and to provide the basic necessities of food, clothing, shelter and a healthy environment in which to develop.

(2) Who has suffered or is likely to suffer physical, emotional or developmental harm inflicted by other than accidental means.

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(3) Who has been deprived of adequate food, clothing, shelter, medical care, education, or supervision necessary for his or her health and well-being. The fact that some person is providing adequate food, clothing, shelter, medical care, education, or supervision necessary for the health and well-being of a child, shall not be a defense to allegations of neglect unless such care was arranged for by the Respondent for a time certain.

(4) Whose parent has or had a reasonable opportunity to prevent child abuse or neglect and failed to do so, or is or has been in the care and control of any adult person who knew or should have known of a significant risk of harm to a child and intentionally failed to protect that child from harm;

(5) Who has committed delinquent acts as a result of parental pressure, guidance, approval or failure to properly supervise;

(6) Who has been sexually abused and/or who has been exposed to age inappropriate sexual conduct, sexually explicit materials including but not limited to all media products and objects;

(7) Who is born addicted to alcohol, cocaine or any other controlled substance or who substantially manifests symptoms or physical and/or developmental effects of such addition within the first 90 days of life;

(8) Whose parents are separated or divorced and no court of competent jurisdiction has issued a temporary custody and support order;

(9) Whose parent custodian, or guardian has been convicted of a violent felony or sexual crime against children or a family member.

(10) Whose parent custodian or guardian has been convicted of a crime or series of crimes that are of a nature which demonstrates an inability, unwillingness and/or unfitness to adequately parent the child and protect the child from harm.

(11) A child who has been subjected to ongoing violence In the home whether or not directed toward the child.

(l) (Reserved)

(m) "Controlled Substance": A controlled substance as defined now or hereafter by the Public Acts of Michigan. Currently such controlled substances are defined by Act No. 368 of the Public Acts of 1978, as amended, being Sections 333.7101 to 333.7544 of the Michigan Compiled Laws, including methcathinone ("cat").

(n) "Court" or "Children's Court": The Court of the Grand Traverse Band of Ottawa and Chippewa Indians asserting jurisdiction over matters involving children.

(o) "Custodian": A person other than a parent or guardian, to whom legal custody of the child has been sanctioned by a court of competent jurisdiction.

(p) "Dependency": A determination made by a court of competent jurisdiction after a hearing, that a child is at risk of, or has been subject to child abuse or neglect as defined in this Code.

(q) "Domestic violence": Any act or acts of physical, sexual or emotional abuse, assault, threats, intimidation, unreasonable economic deprivation, stalking, harassment, public embarrassment, sexual coercion perpetrated by one family member against another, whether or not residing within the same household, however for purposes of this Code, all members of a household shall be considered

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"family members."

(r) "Domicile": The usual and common residence of person defined by a clear intent to maintain residency continuously despite any periodic physical absence from the home. The domicile of a child is presumed to be that of the custodial parent, legal guardian or custodian.

(s) "Extended Family": A person who is the child's grandparent, aunt, uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first, second cousin, or stepparent.

(t) "Father": A man legally married to the mother of a child at any time from a child's conception to the minor's birth; or

(1) A man who legally adopts a child; or

(2) A man whose paternity has been established in one of the following ways within time limits, when applicable, set by the Court pursuant to this chapter:

(A) The man joins with the mother of the child and acknowledges the child as his child in a writing, executed and acknowledged by them in the same manner provided by law for the execution and acknowledgement of ex parte court orders and recorded at any time during the child's lifetime in the office of the Tribal Court or in any other court of competent jurisdiction.

(B) The man signs a declaration of paternity upon the birth of the child or the man and the mother file a joint, written request for a correction of the certificate of birth to name the declarent man as the child's father, and such a revised birth certificate is issued.

(C) The biological father has abandoned a child and a man has held himself out as the father of the child and substantially fulfilled parental responsibilities during the course of the child's life; or both a man and a child of at least eight years of age have maintained a mutually acknowledged relationship of parent and child.

(D) A man, who by order of filiation, or by biological proof of paternity, is determined to be the father of the child in any court of competent jurisdiction.

(u) "Guardian": A person assigned by a court of competent jurisdiction, other than a parent, having the duty and authority to provide care and control of a child as set forth in § 128 of this Code.

(v) "He/His": The use of he/his means he or she, his or her, child/children, and singular includes plural.

(w) "Immediate Family": Parents, stepparents, siblings, half-siblings.

(x) "Indian": Any member of a federally recognized Indian tribe, band or community, or Alaska Natives, any member of an historic tribe or band recognized by the GTB or the State of Michigan or a person acknowledged by the community to be a Native American.

(y) "Indian Child": A child who is a member of a tribe or band that is acknowledged to exist as a tribe or band by the United States, the Secretary of the Interior or a member of an historic tribe or band recognized by the State of Michigan. A child who is eligible for such membership who is the natural child of at least one parent who is an Indian as defined herein.

(z) "Least Restrictive Alternative": A placement alternative which creates the least disruption, upheaval or adverse effects upon the child and family; when considering the best interests of the child, for obtaining the objectives of the Court and this Code.

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(aa) "Legal Custodian": One who by maternity, paternity or valid Order of a Court of competent jurisdiction has custody and control over a minor child.

(bb) "Minor": A person less than 18 years of age.

(cc) "Multidisciplinary Team": A team established to assist in the prosecution of sexual and physical abuse cases.

(dd) "Parent": A person who is legally responsible for the control and care of a child, including a natural or adoptive parent, a legal guardian or custodian; excluding persons whose parental rights have been terminated and/or a father whose paternity has not been acknowledged or established as provided for in this Code.

(ee) "Parental Rights": Legal rights attached to and associated with parenthood and all attendant responsibilities, duties and obligations including, but not limited to:

(1) Care, custody, maintenance and protection. Parent has the right to lawfully provide for a child's care, custody, maintenance and protection according to his/her own beliefs, customs and values so long as the child is not placed at risk of physical, emotional or developmental harm.

(2) Adequate guidance. It is presumed that parental guidance is given in good faith and in the best interest of the child. This presumption may only be rebutted by clear and convincing evidence that guidance provided to a child has directly resulted in physical, emotional or developmental harm to the child,

(3) Right to discipline. Parent has right to correct the child by reasonable and timely punishment, including corporal punishment which must be corrective and not punitive and may not result in physical injury to the child. Deprivation of basic needs such as food, shelter, education, medical care or clothing shall not be considered lawful punishment.

(4) Control of education. Parents may educate children as they see fit so long as the child's intellectual development is age appropriate and meets minimum community standards for academic progress.

(5) Religious training. The religious training of minor children, or lack of it, is a matter solely within the parent's discretion.

(6) The right to a child's services and earnings so long as the child is not exploited.

(ff) "Parental Kidnapping": The act of a non-custodial parent denying or causing the denial of dominion and control over a child by one lawfully charged with custody of that child. The act of a non-custodial parent to remove a child from the jurisdiction of the Court which rendered or is in the process of rendering a custody or placement determination.

(gg) "Parenting Time": Scheduled times in which a Respondent and other approved family members may engage in interaction with a child who has been removed from his or her domicile pursuant to this Code.

(hh) "Party in Interest": In any court action pursuant to this Code, the Petitioner, the Respondent and the Child(ren) who are the subject of any legal proceeding arising from enforcement of this Code.

(ii) "Permanency Plan": A plan for long-term placement and care of a child who has been adjudicated Dependent under the provisions of this Code and has remained in protective placement for a period of time that would indicate that long-term or permanent placement and care are in the best interests

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of the child.

(jj) "Petitioner": The person, agency or entity seeking relief or remedy under the provisions of this Code.

(kk) "Presenting Officer": The Tribal prosecuting attorney or an assistant Tribal prosecuting attorney who represents the Tribe in all matters related to this Code and the Indian Child Welfare Act 25 U.S.C. § 1901 et seq.; or one charged by the Chief Judge of Tribal Court to present cases involving abuse and neglect to the GTB Children's Court for adjudication and to represent the interests of GTB in court cases involving GTB member families.

(ll) "Protective Placement": Provision of residence for a child outside of the child's domicile intended to be temporary pending investigation or adjudication of allegations of Child abuse or neglect as defined herein.

(mm) "Protective Services Worker": The protective services worker, social services worker, law enforcement personnel or any person who performs the duties and responsibilities set forth in § 110 of this Code.

(nn) "Reasonable Efforts": The mandated responsibility of GTB to provide individually specific services in support of reunification which are conducive to altering individual and family behaviors and attitudes that pose a risk to children. Services should, whenever possible, be culturally specific and always remedial in intent.

(oo) "Respondent": The person or persons alleged to have violated provisions of this Code.

(pp) "Reunification": The preferred goal of remedial plans to eliminate or alleviate circumstances within family life that may cause or contribute to a risk of physical, emotional or developmental harm to the child.

(qq) "Reunification Plan": The plan for the provision of services, participation and compliance by parties in interest, placement, parenting time and other relevant factors that are reasonably designed to facilitate the eventual reunification of a family under provisions of this Code or to prevent the breakup of a family under provisions of this code.

(rr) "Six-County Primary Service Area": The U.S. Department of Interior's administrative designation of Charlevoix, Antrim, Grand Traverse, Leelanau, Benzie and Manistee Counties as the Grand Traverse Band's primary service area.

(ss) "Termination of Parental Rights": A judgment by a court of competent jurisdiction that, after trial and deliberation, it is in the best interest of a child to permanently terminate a respondent's legal rights to custody and control over the child and to permanently place the child in the custody and care of a person or entity suited to assume the parental responsibilities of custody and care of a child,

(tt) "Tribal Council": The elected governing body, exercising the legislative and executive powers, of the Grand Traverse Band of Ottawa and Chippewa Indians as set forth in the GTB Constitution.

(uu) "Tribal Court": The Tribal Court of the Grand Traverse Band of Ottawa and Chippewa Indians. A court of general jurisdiction functioning within the Tribal Judiciary, the Appellate Court functioning within the Tribal Judiciary, the judicial branch of the Grand Traverse Band government as set forth in the GTB Constitution.

(vv) "Tribe": The Grand Traverse Band of Ottawa and Chippewa Indians.

(ww) "Tribal Lands": Lands owned by the Grand Traverse Band of Ottawa and Chippewa Indians; lands

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owned by the United States of America in Trust for the Grand Traverse Band of Ottawa and Chippewa Indians; lands within the exterior boundaries of the Grand Traverse Band; and Indian Country as defined in 18 U.S.C. § 1151.

(xx) "Ward": A child who has been adjudicated a dependent child, over whom the Tribal Court has jurisdiction. A dependent child is a temporary ward of the Court until the time the case is dismissed and/or jurisdiction terminates. In cases where parental rights are terminated, the child becomes a permanent ward of Tribal Court.

§ 103. Jurisdiction of the Children's Court. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Children's Court. There is for the Grand Traverse Band of Ottawa and Chippewa Indians, a court known as the Children's Court within the GTB judiciary. The jurisdiction of the Children's Court is civil in nature and retains the right to issue all orders and judgments necessary to insure the safety, well-being and best interests of children living within the GTB service areas. The Children's Court is empowered to enforce subpoenas and orders of restriction, fines, contempt, confinement and other orders as appropriate.

(b) General Jurisdiction. The Children's Court is empowered to enforce the valid judgments and orders of the Courts of the State of Michigan and other jurisdictions pursuant to MCLA 722.1100 et seq. and MCR 2.615.

(c) The Children's Court is empowered to assert jurisdiction over the following persons:

(1) An enrolled member of the Tribe or one eligible for enrollment who is under the age of 18 years, residing within the GTB's six county primary service area and their family.

(2) Children who have come under the jurisdiction of a court outside that of the GTB Children's Court and whose cases have been transferred to Tribal Court; or those in which the Tribe has intervened or asserted rights pursuant to the applicable provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901 1963, the Uniform Child-Custody Jurisdiction and Enforcement Act, MCL 722.1101, the Adoption and Safe Families Act 42 U.S.C. § 671 et seq. and the Parental Kidnapping Prevention Act, 28 U.S.C. § 1738A.

(A) Exceptions: The application of specific time lines; placement requirements, foster care regulation and licensing, adoption procedures and permanency provisions of the Uniform Child-Custody Jurisdiction and Enforcement Act, MCL 722.1101, the Adoption and Safe Families Act 42 U.S.C. § 671 et seq. and the Parental Kidnapping Prevention Act, 28 U.S.C. § 1738A, not expressly deemed applicable to Indian Tribes shall not be binding upon the GTB Children's Court. Similar provisions contained in or implied by State statutes shall be applicable under this Code only upon written directive of the Chief Judge of the Tribal Court.

(3) Child(ren) of enrolled member(s) of the Tribe or of other Indian Tribes, as defined in § 102 of this Code, residing on Tribal lands.

(4) Non-Indian Child(ren): Child(ren) who is/are not an Indian child as defined herein, but who is residing or domiciled within the jurisdiction of the Children's Court.

(5) Any person causing a child to come within the jurisdiction of the Children's Court pursuant to

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this Code.

(6) A person who is residing on Tribal lands of the Grand Traverse Band who is pregnant and actively abusing alcohol or controlled substances.

(7) The extended family residing or domiciled in the same household of a child who comes under the jurisdiction of this Code.

§ 104. Transfer of Jurisdiction. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Application of the Indian Child Welfare Act. The Children's Court may apply the provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq. that do not conflict with the provisions of this Code. State Court procedures regarding the Indian Child Welfare Act shall not be binding upon the Children's Court except when specifically provided for in this Code.

(b) GTB shall intervene in all ICWA cases involving member children and those deemed qualified for tribal enrollment. Acceptance of Transfer of jurisdiction to tribal court in ICWA cases shall be at the sole discretion of a Tribal Court Judge.

(c) Transfer to State Court or Other Tribal Court. In any proceeding within the jurisdiction of the GTB Children's Court, the Court may transfer the proceedings to an appropriate state or tribal court when concurrent jurisdiction exists or upon a finding that another jurisdiction has a significant interest in the outcome and transfer of jurisdiction would be in the best interest of the child.

(d) The Children's Court shall transfer jurisdiction to other jurisdictions when required pursuant applicable provisions of MCLA 722.1100 et seq.; the Kidnapping Prevention Act, 28 U.S.C. § 1738A or under the UCCJA (MCL § 722.1101 et seq.) or when the Court deems it appropriate as a matter of comity and/or full faith and credit pursuant to MCR 2.615.

(e) Transfer from Other Courts. The Children's Court may seek, accept or decline transfer of jurisdiction from other jurisdictions pursuant to applicable provisions of the UCCJA (MCL § 722.1101 et seq.) or a judicial request so long as a determination is made for the record that the Children's Court is empowered by this Code to assert jurisdiction in the case proposed for transfer.

§ 105. Procedures for Intervention and Transfer. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603, enacted by Tribal Council on March 29, 2006; and amended by Tribal Council motion, enacted on July 27, 2016.]

(a) Receipt of Notice. The presenting officer shall be the agent for service of notice of the state court child custody proceedings, as required by the Indian Child Welfare Act.

(b) Intervention. The presenting officer shall file a motion to intervene with the state court within five days of receipt of notice upon certification by the GTB Membership Office that the child is an "Indian Child" pursuant to the Indian Child Welfare Act. Whenever possible, the presiding officer or a member of AFS will attend critical hearings either in person or upon appropriate motion, telephonically.

(c) Investigation and Pre-Transfer Report. A trained and qualified Child Protection Worker shall

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investigate and assess all Notifications of ICWA proceedings and file a written report to the presenting officer. The presenting officer will use the report in determining levels of intervention and whether or not to seek transfer of jurisdiction to tribal court.

(d) (Reserved)

(e) Decision to Transfer. AFS Child Protection Worker shall make recommendations to the presenting officer regarding whether or not the Tribe should initiate transfer of jurisdiction to tribal court or to support a Motion for Transfer from state court. When determining if and when a Motion to Transfer Jurisdiction to Tribal Court is appropriate, the presenting officer shall consider:

(1) The best interests of the child;

(2) The best interests of the Tribe;

(3) Availability of services for the child and his or her family;

(4) Prospects for permanent placement of the child; and

(5) Conservation of tribal resources.

(f) Notice to Court. If the presenting officer seeks transfer of jurisdiction to GTB Children's Court, the presenting officer shall advise the Tribal Court of the intent to file or support a Motion for Transfer, indicating the County from which transfer will be sought.

(g) Tribal Court Hearing. The Children's Court may conduct a hearing to determine if the Court should accept transfer after a petition for transfer has been filed with the state court or immediately upon receipt of service of a Motion to Transfer Jurisdiction filed by any party in interest. The Tribal Court shall consider the following factors:

(1) The best interests of the child;

(2) The best interests of the Tribe;

(3) Availability of services for the child and his or her family;

(4) Prospects for permanent placement for the child; and

(5) Conservation of tribal resources.

(6) The family's ties to the GTB or other Indian community.

(h) The Tribal Court has sole discretion to accept or deny transfers of jurisdiction from State courts. A Judge may accept transfer of jurisdiction without hearing when exigent circumstances are presented in an ex parte motion and indicate that the best interest of the child and GTB will be clearly served best by immediate transfer of jurisdiction. Subsequent to a hearing in State Court on a valid Motion to Transfer Jurisdiction resulting in a ruling in favor of transfer, the Court must make and immediate determination regarding acceptance or denial of acceptance of jurisdiction and notify the State Court in writing of its determination.

(i) Motion for Transfer. A petition for Transfer of Jurisdiction generated by the GTB presenting officer shall be filed in state court with Notice of Filing to the Children's Court.

(j) Hearings upon Transfer. Upon Transfer of Jurisdiction from state court and entry of Children's Court Order of Acceptance, the Court shall proceed in accordance with provisions of this Code within 15

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days.

(k) Transfers of Jurisdiction from other courts shall be by Petition to the Children's Court by a party in interest and acceptance of jurisdiction shall be determined by hearing within 10 days of date of filing.

§ 106. Full Faith and Credit; Conflict of Laws. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) State Court Orders. State child custody orders involving children over whom the Children's Court may assert jurisdiction must be enforced whenever those orders comport with MCR 2.615, MCLA 722.1100 et seq. and the Children's Court has conducted an independent review of such state proceedings to determine if:

(1) The State Court has properly assumed jurisdiction over the child; and

(2) The provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901 1963, were properly executed; and

(3) Due process was provided to all interested parties participating in the state proceeding; and

(4) The state court proceeding does not violate the public policies, customs or common law of the tribe.

(b) Court Orders of Other Tribal Courts. Orders of other tribal courts involving children over whom the Children's Court may assert jurisdiction shall be enforced by the Children's Court after the Court has determined:

(1) That the other tribal court exercised proper subject matter and personal jurisdiction over the parties; and

(2) Due process was provided to all interested parties participating in the other tribal court proceeding.

(c) Tribal Interest. Because of the vital interest of the GTB in its member children and those children who may become members, the statutes, regulations, public policies, customs and common law of the GTB shall control in any Children's Court proceeding involving an Indian Child as defined herein.

§ 107. Procedures and Authorizations. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Rules of Procedure. The procedures in the Children's Court shall be governed by the rules of procedure for the Tribal Court, not in conflict with this Code. In the absence of Tribal Court promulgated rules of procedure, the Michigan Rules of Civil Procedure shall be utilized as a guide.

(b) Cooperation and Grants. The Children's Court is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any appropriate foster care, shelter care, treatment or training program(s) which may be available, and to receive grants-in-aid to carry out the purposes of this Code. This authority is subject to the availability of funds.

(c) Social Services. The Children's Court shall utilize such social services as may be furnished by any

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tribal, federal, or state or private agency provided that it is economically administered without unnecessary duplication and expense.

(d) Contracts. The Children's Court may negotiate contracts with tribal, federal or state agencies and/or departments on behalf of the Tribal Council for the care and placement of children before the Children's Court subject to the availability of funds and federal laws governing the custody and control of children.

(e) Promulgation of Rules: The Chief Judge of the Tribal Court shall promulgate or cause to be promulgated, and maintain the Court Rules of Procedure which facilitate the efficient and fair execution of this Code.

§ 108. Children's Court Personnel, Officers of the Court. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603, enacted by Tribal Council on March 29, 2006; and by Tribal Council motion, enacted on July 27, 2016.]

(a) Children's Court Judge. Shall preside over cases involving minor children and their families.

(1) Appointment. The Children's Court Judge(s) shall be appointed in the same manner as the Tribal Court Judges.

(2) Qualifications. The general qualifications for Children's Court Judges shall be the same as the Tribal Court Judges.

(3) Powers and Duties. In carrying out the duties and powers specifically enumerated under this Code, judges of the Children's Court shall have the same duties and powers as judges of the Tribal Court, including, but not limited to, the contempt power, the power to issue arrest or custody warrants, and the power to issue search warrants. The Chief Judge shall retain the power to delegate certain administrative duties of the Children's Court to appropriate personnel.

(4) Disqualification or Disability. The rules of disqualification or disability of a Children's Court Judge shall be the same as those rules that govern Tribal Court Judges.

(b) Presenting Officer. One charged by the Chief Judge of Tribal Court to present cases involving abuse and neglect to the GTB Children's Court for adjudication and to represent the interests of GTB in State court cases involving GTB member families.

(1) Appointment. The Children's Court Presenting Officer shall be appointed in the same manner as the Tribal Prosecutor pursuant to the Tribal Prosecutor's Ordinance.

(2) Qualifications. The general qualifications for the presenting officer shall be the same as the qualifications for Tribal Prosecutor specified in the Tribal Prosecutor's Ordinance. The presenting officer must have education or experience in the adjudication of ICWA cases and be familiar with tribal court procedures.

(3) Powers and Duties. The Tribal presenting officer shall have the same powers and duties as the Tribal Prosecutor has in Tribal Court. The presenting officer shall represent the Tribe in all proceedings under this Code and the Indian Child Welfare Act. The presenting officer or an assistant presenting officer shall serve as legal counsel for the Anishinaabek Family Services Program.

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(4) Removal; Disqualification or Disability. The rules of removal, disqualification or disability of the presenting officer shall be the same as those for the Tribal Prosecutor as enumerated in the Tribal Prosecutor's Ordinance.

(c) Counsel for Parents, Parents may be represented at each stage of proceedings under this Code by an attorney or lay advocate at their own expense. Parents shall be notified of their right to representation in all dependency and termination proceedings.

(d) Guardians Ad Litem (GAL).

(1) Appointment. At any stage of proceedings conducted under this Code, the Court may appoint a guardian ad litem for the child. The GAL may be a lawyer, or a disinterested lay advocate approved by the Court.

(2) Role of the Guardian Ad Litem. The duty of the guardian ad litem is to represent and assert the best interests of the child. A child 14 years of age or older is presumed capable of determining what is in his or her best interests and may direct the GAL accordingly. It is the duty of the guardian ad litem to represent the child's wishes in such cases. For children under the age of 14, the guardian ad litem shall make a determination as to the best interests of the child regardless of whether that determination reflects the wishes of the child. However, the wishes of the child are always relevant and shall be weighed according to the competence and maturity of the child and in consideration of the child's circumstances. The GAL is required to assert the best interests of the child and, when appropriate, the child's wishes in all placement and reunification planning procedures.

(3) Duties of the Guardian Ad Litem. The guardian ad litem shall perform the following duties:

(A) Appear at all hearings and competently and diligently represent and assert the best interests of the child in all proceedings before the Court;

(B) Conduct an independent investigation, including interviewing the child, parents, social workers, school personnel, care providers, and other persons to properly ascertain the facts and circumstances which are material to determining the best interests of the child;

(C) Provide a written report of findings of best interests as defined herein to the Court and all parties in interest regarding placement, remedial efforts and reunification prior to dependency and termination hearings or as ordered by the Court.

(D) Seek specific and clear orders for evaluation and assessment when appropriate as well as services and treatment for the child that will advance the goal of reunification of the family whenever possible.

(E) Monitor development and implementation of reunification plans and court orders to determine whether plans and orders are, under the circumstances reasonable, timely executed and are designed to accomplish clear goals.

(F) Assert appropriate Court action if services are in adequate or not being made available to the child and/or the family, or if such services are not achieving their purposes;

(G) Identify common interests among the parties and, when possible, promote a cooperative resolution of issues before the court;

(H) Consult with other professionals in identifying the child's best interests, current and future

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placements, and necessary services;

(I) Advocate for the best interests of the child in mental health, educational, juvenile justice, and other community systems when related to the circumstances causing the child to come within the jurisdiction of the Children's Court;

(J) Attend training programs as recommended and provided by the Court, Anishinaabek Family Services; and

(4) Confidentiality. Except as otherwise directed by the Court, All records, information, and reports prepared, acquired or received or reviewed by Guardians ad litem are confidential and shall only be disclosed or dispersed pursuant to this Code or other Tribal law.

(e) Officers of the Court.

(1) All Court Personnel and attorneys practicing before the Court shall be considered Officers of the Court with duties of ethical and fair conduct in all dealings with the court in accordance with the Michigan Rules of Professional Conduct for attorneys. The Chief Judge shall ensure that each officer of the court upholds his or her duty to the court and that the independence and dignity of the Court is preserved.

(2) All GTB employees who are officers of the Court shall submit to background checks and shall adhere to all Court policies and procedures and shall uphold the law of the Grand Traverse Band of Ottawa and Chippewa Indians.

(3) Officers of the Court shall be immune from civil suit arising from any act or omission occurring pursuant to or in execution of their official duties as officers of the Court.

(4) (Reserved)

(5) Child Protective Services Worker: As described in § 110 of this Code shall be considered officers of the Court for purposes of final oversight and immunity in all matters brought before the Children's Court pursuant to this Code.

(6) Investigator: Any law enforcement officer or agent who has engaged in investigation of child abuse and neglect charges and/or assisted in determining the grounds for a Child Dependency Petition shall be considered officers of the court for purposes of immunity in all matters brought before the Children's Court pursuant to this Code.

(7) Presenting Officer: As described in this code shall be considered an officer of the court for purposes of final oversight and immunity in all matters brought before the Children's Court pursuant to this Code.

§ 109. Family Service Policy and Procedure. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; and as amended by Tribal Act #0119.996, enacted by Tribal Council on May 16, 2001; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603, enacted by Tribal Council on March 29, 2006; and by Tribal Council motion, enacted on July 27, 2016.]

(a) The Director of AFS shall be responsible to recommend policies and procedures for internal operations and for interactions with other agencies to Tribal Council for approval. The Director may work in conjunction with other departments as needed to develop and present recommendations.

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(b) The Director shall maintain a standard of criteria for foster care homes to satisfy in order to be licensed by the Department. The Director or a designee shall monitor licensed foster care homes to ensure compliance with the criteria.

(c) Tribal Council shall convene as a critical incident/lethality review board if a child under the care of AFS is permanently injured or killed. Tribal Council may also convene as a lethality review board to review the death of a minor tribal member residing in the six-county service area.

(1) AFS shall present a report documenting the procedural processes of all agencies involved in the event. If Tribal Council deems it necessary and appropriate, it may appoint an independent investigator to present a report on all agencies involved and to make recommendations for mitigation and prevention.

(2) Critical incident/lethality review boards shall be presented in a closed portion of a Tribal Council meeting.

(3) AFS or the independent investigator shall present the report within 30 days of receiving notice of death or critical incident. Incidents of abuse within the GTB foster care system shall be reported as critical incidents.

§ 110. Protective Services Workers. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Powers and Duties.

(1) Employment. The Anishinaabek Family Services shall employ or contract for at least one protective services worker.

(2) Cooperation with Other Agencies. The Anishinaabek Family Services shall cooperate with such state and community services as are necessary to achieve the purposes of this Code. The Anishinaabek Family Services may negotiate working agreements with other jurisdictions. Such agreements shall be subject to ratification by the Tribal Council.

(3) Protocol. A Protective Services Worker shall:

(A) Receive from any source, oral or written, information regarding a child who may meet the definition of a Dependent Child as defined in sec. of this Code. The identity of the reporting party shall be kept confidential.

(B) Upon receipt of any report or information under § 110(a)(3)(A), initiate a prompt and thorough investigation within 24 hours which shall include a determination of the nature, extent, and cause of any condition or circumstances which would demonstrate just cause to bring the child(ren) under the jurisdiction of the Children's Court.

(C) In conducting an investigation of child abuse or neglect, the protective service worker shall seek the assistance of, and cooperate with law enforcement officials within 24 hours after becoming aware that one or more of the following conditions exist:

(i) Abuse or neglect is the suspected cause of a child's death;

(ii) A child is the suspected victim of sexual abuse, sexual misconduct or sexual

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exploitation;

(iii) Allegations of Abuse or neglect resulting in severe physical, mental or emotional injuries to a child which require medical treatment For purposes of this subsection, "severe injury" includes but is not limited to physical trauma, biological dysfunction medically determined to be caused by the act or omission of another, illness due to injury of undetermined origin for which abuse or neglect is a reasonably likely cause or causative factor.

(iv) Intervention is necessary to ensure the immediate protection of a child, a member of a allegedly abused or neglected child's household, the protective worker, a witness or reporting party, or another person involved in the investigation; or

(v) Any alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare but resides in the same home as the child or has significant contact with the child.

(vi) A child has committed an act which, if the child were an adult, would be considered a violent felony or the child demonstrates serious substance abuse that has not been addressed under the GTB Juvenile Code.

(D) Emergency Removal; In removing a child from the custody of his/her parents, legal guardian, or custodian, pursuant to § 114, Law enforcement officials shall cooperate with social services personnel and act to protect the child, members of the child's household and social services personnel whenever necessary to facilitate removal of a child into tribal custody;

(E) During and after investigation, assess the risk to any children remaining in the residence or domicile or those with whom the alleged perpetrator(s) are like to have contact, and all other facts or matters found to be material to, and probative of allegations of abuse and/or neglect;

(F) Substantiate and secure evidence of abuse and/or neglect and that which supports probable cause to believe that a child; has been abused or neglected, the identity of the perpetrator(s) and that removal is the least restrictive means by which the safety of the child may be secured;

(G) Offer to the child and family appropriate available services and assistance in obtaining services;

(H) Within 30 days of referral or removal of a child submit a written report of the investigation and evaluation which shall be included in the official case files maintained by the Anishinaabek Family Services. The report shall include a determination as to whether the report of abuse or neglect was substantiated or unsubstantiated and disposition of placement; and

(I) Upon completion of investigation inform a person who initiates a report of abuse or neglect as whether the allegations have been substantiated or not. No other information may be imparted to a reporting party.

(J) Assist in developing individualized, reunification and concurrent permanency plans which reasonably anticipate both the success and failure and include contingency plans for each.

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(K) Assist in determining when a reunification plan has been successful and when it has, for whatever reason, failed. When a reunification plan has failed, provide evaluation of the plan and make remedial recommendations as to any elements of the plan which appear to have failed because of systemic or procedural flaws.

(4) Cooperation of Law Enforcement Officials. Law enforcement officials shall fully cooperate with protective services worker(s) and Anishinaabek Family Services in conducting investigations pursuant to this section. Law enforcement shall be responsible for identifying and securing evidence and maintaining police procedures and the chain of custody of such evidence.

(5) Substance Abuse by Pregnant Woman. If a report is received alleging abuse of alcohol or a controlled substance by a pregnant woman, protective services workers shall arrange for appropriate assessments and offer services. Services may include, but are not limited to, a referral for chemical dependency assessment and treatment, pre-natal care, and parenting classes. Protective services workers also may seek court ordered services under § 116. Protective services workers shall seek court ordered treatment under said § 116 if the voluntary services are refused or fail.

(6) In cases in which a child abuse or neglect report cannot be substantiated, or those in which informal intervention seems most appropriate, the protective services worker may meet informally with all interested parties to discuss concerns and remedies with the intent of preventing further intervention.

(b) Limitations on Authority; Duty to Inform.

(1) No Legal Authority. Before offering informal, preventative protective services to a family, a child protection worker shall inform the family that he/she has no legal authority to compel the family to accept such services.

(2) If Family Declines. If a family declines informal preventative protective services, the child protection worker(s) may request authorization from the presenting officer to initiate a Dependency petition in Children's Court if evidence warrants such action If evidence remains insufficient to substantiate abuse or neglect the case shall be closed.

(3) No Limitation of Authority. Nothing in this section limits the authority of protective services worker(s) to act in emergency situations or to obtain a medical evaluation of the child pursuant to § 114.

(4) Communications between family members and AFS staff shall remain confidential. Nothing in this clause is intended to mitigate any mandated reporter's duty to report child abuse and neglect.

§ 111. (Reserved) [History: No § 111 was included in Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

§ 112. Duty to Report Child Abuse and Neglect. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603, enacted by Tribal Council on March 29, 2006; and by Tribal Council motion, enacted July 27, 2016.]

(a) Duty to Report. Any person who has reasonable cause to suspect that a child is or has been abused or neglected shall immediately make a report to the Anishinaabek Family Services or the Tribal law

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enforcement department. Those persons reporting, except those specified in § 112(b) below, may remain anonymous.

(b) Mandated Reporting. The following persons are specifically required to report child abuse and neglect, and pregnant women suspected of abusing alcohol or controlled substances:

(1) All GTB employees, any physician, nurse, dentist, optometrist, or any other medical or mental health care professional, including community health representatives; school principals, school teachers, or other school officials; social workers; child day care center workers or other child care staff members, including GTB certified foster parents, residential care or institutional personnel; counselors; peace officers or other law enforcement officials. Any mandated reporter who has reasonable cause to suspect that a child may be a the victim of neglect or abuse shall immediately report the suspected abusive or neglectful situation condition or circumstances to Anishinaabek Family Services or Tribal law enforcement.

(2) A person mandated to report under § 112(b)(1) shall immediately report to Anishinaabek Family Services if the person knows or has reason to suspect that a woman who is pregnant has abused alcohol or used a controlled substance for a nonmedical purpose during pregnancy.

(3) Within 72 hours after making the initial report, the mandated reporter shall file a written report with law enforcement or AFS. If the reporter is a GTB member, the staff of a clinic, hospital, agency or school, the reporter shall notify their immediate supervisor of the report. One report from any person, department or agency shall be considered adequate for purposes of the reporting requirement. No mandated reporter shall be disciplined or suffer adverse consequences in the workplace for making a good faith report of abuse or neglect.

(c) Immunity From Liability. All persons or agencies complying in good faith with the provisions of this Code shall be immune from civil liability and criminal prosecution in Tribal Court.

(d) Abrogation of Privilege. Any legally recognized privileged communication, except that between attorney and client, is abrogated and shall neither constitute grounds for excusing a mandated report nor for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this Code.

(e) Penalty for not Reporting. Any person mandated to report under § 112(b) who knowingly fails to do so or who willfully prevents someone else from doing so shall be subject to a charge of civil contempt with a penalty of up to 90 days in jail and/or a fine of up to $5,000.

(f) Abuse and Neglect Reporting. Abuse and neglect written reports shall include the following information, if known:

(1) Names, addresses, and tribal affiliation of the child and his/her parents, guardian or custodian including enrollment numbers;

(2) The child's age and birth date and social security number;

(3) The nature of the suspected abuse or neglect;

(4) Personal knowledge of previous history of abuse or neglect of a child and/or siblings;

(5) The name, age, and address of anyone suspected of perpetrating abuse or neglect on a child.

(6) The name and address of the person and/or agency making the report.

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(g) Medical Examination.

(1) Court Order. The Anishinaabek Family Services may, upon a showing of good cause, request a court order for a medical evaluation of a child pursuant to § 114 of this Code. AFS or law enforcement is empowered to obtain an emergency medical evaluation without a court order if the child's life or limb is seriously endangered and a court order cannot reasonably be obtained. A medical evaluation shall be obtained in all incidents of suspected sexual assault on a child within 24 hours or receipt of a report of such assault.

(2) Physician's Obligation, When a child suspected of being abused or neglected is examined by a physician, the physician shall make all necessary medical findings, which may require physical or psychological examinations, x-rays, photographs, laboratory studies, and other pertinent tests and diagnostic evaluations.

(3) Reporting Requirement. A physician shall, upon completion of a medical evaluation, immediately report the results to the Anishinaabek Family Services, law enforcement and the Court. A physician's written report shall contain summaries of medical findings, results of evaluations and a detailed report of any diagnostic tools used to reach the findings.

§ 113. Drug/Substance Abuse During Pregnancy. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1,1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Jurisdiction. The Children's Court may assume jurisdiction; upon a showing by a preponderance of the evidence, over a woman who is or has been abusing alcohol or controlled substances during her pregnancy.

(b) Court Order. Upon assuming jurisdiction, the Court may enter orders requiring a pregnant woman to cease and desist any substance abuse, submit to reasonable measures to assure her nonuse, and to engage in community based or inpatient treatment programs and prenatal care. Such court orders may be enforced through the Court's civil contempt powers.

(c) Privileged Information. Information made available pursuant to a Children's Court order regarding a woman's drug/substance use during pregnancy may not be used in a criminal prosecution against the woman.

§ 114. Investigation and Emergency Removal. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Investigative Orders: Orders for Examination. The Court may, upon a clear showing that probable cause exists to determine that a child meets the definition of an abused or neglected child, order investigation and discovery, including but not limited to, taking of photographs, gathering physical evidence, and examinations or evaluations of a child, parent, guardian or custodian, conducted by a physician, dentist, psychologist, or psychiatrist. Such orders may be issued ex parte under exigent circumstances.

(b) Authority to Remove. If the Court finds probable cause to believe a child is dependent as defined herein, and that conditions or circumstances present a substantial risk of harm to the child's life, physical health or mental well-being, the Court may issue ex parte orders to remove the child from the condition or circumstances and place the child under the protective care and custody of the GTB. The Court shall include in such an order:

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(1) An authorization to enter a specified premises for purposes of removing a child and to gather evidence;

(2) To place the child in protective custody pending preliminary hearing; and

(3) An affidavit in support of the existence of probable cause that a child within a specific location meets the definition of a dependent child.

(c) Emergency Removal Without a Court Order. A child may be taken into protective custody without a court order by a law enforcement officer or the Tribe's protective services worker(s) if reasonable cause exists that a child meets the definition of a Dependent child, and:

(1) Failure to remove the child may result in an immediate and substantial risk of death, serious injury, or serious emotional or developmental harm to the child; or

(2) The parent, guardian or custodian is absent and the child will likely be deprived of the basic necessities of life, because no alternative arrangements for care and supervision have been made and removal is necessary to protect the child.

(d) Removal: If it is clear at the time of contact with the child or family members that the risk of harm to the child outweighs the potential that the conditions or circumstances which form the grounds for removal can be substantially mitigated or eliminated by immediate and voluntary remedial efforts, the child and all children residing within the same domicile or residence shall be removed.

§ 115. Notice of Removal. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Notice to the Children's Court. After removal of a child without a court order, the person who removed the child shall attempt to contact and notify the presenting officer within six hours of the actual removal. Attempt(s) to contact and notify the presenting officer shall be documented in the case files. Actual notice of the removal of child shall be filed in Children's Court no later than 12:00 noon on the next official court business day following the removal.

(b) Notice to the Parent(s), Guardian or Custodian. The person removing the child shall make diligent efforts to immediately notify the child's parents, guardian or custodian, of the removal of the child. Diligent efforts shall include personal, telephone and written contacts at their residence, place of employment, or other locations where parents, guardians or custodians are known to frequent. Notice shall be deemed adequate if, after failing to locate the parent(s), guardian or custodian within 12 hours of removal, it is served upon an extended family member.

(c) Notice to Child's Tribe if Different than Grand Traverse Band. If the Tribal Court asserts jurisdiction over a person who is a member of an Indian tribe or historic band other than the Grand Traverse Band, the Tribal Court shall immediately notify the appropriate Tribal Court that jurisdiction has been asserted by GTB.

§ 116. Placement of Children. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Council Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Restrictions. A child alleged to be Dependent shall not be placed in a jail or other facility intended or

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used for the incarceration of adults charge with criminal offenses or for the detention of children alleged to be juvenile offenders, nor may a child be placed in a facility for psychiatric care, homelessness, domestic violence victims or substance abusers unless such services are clearly indicated as an immediate need of the child.

(b) Placement Priorities. A child may be placed in the following community based sheltercare facilities listed in order of preference:

(1) Members of the child's immediate family living in a household separate from that of the child.

(2) Members of the child's extended family;

(3) An Indian family of the Grand Traverse Band which is licensed as a foster home or an Indian family otherwise authorized by law to provide care for the child;

(4) A facility operated by a licensed Indian child welfare services agency; or

(5) Any other suitable placement which meets the standards for shelter care facilities established and so certified by the Child Protection Team.

(c) Removal of the Alleged Perpetrator. If an alleged perpetrator of child abuse or neglect is identified and resides in the same household as victim, such perpetrator may be ordered from the home until further order of the court or the issuance of findings that allegations of abuse or neglect cannot be substantiated.

(d) Least Restrictive Setting. Until reunification is deemed appropriate, a child shall be placed in the least restrictive setting which most approximates a family environment, and in which his/her special needs, if any, may be met. The child shall also be placed in reasonable proximity to his/her home, taking into account any special needs of the child and the continuity of education, and presuming that reasonable efforts to reunify the family include parental and sibling visitation.

§ 117. Anishinaabek Family Services Informal Preventative Intervention. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Council Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Informal Conference. Anishinaabek Family Services may hold an informal conference with the child and the child's parent(s), guardian, or custodian, before or after the filing of a petition, to discuss alternatives to formal dependency adjudication if:

(1) An informal intervention into family circumstances would be in the best interest of the child and the Tribe; and

(2) The child and the child's parent(s), guardian, or custodian consent to an informal preventative intervention conference after they have received an explanation of their rights.

(b) No Authorization to Compel Involuntary Action. This section does not authorize the Anishinaabek Family Services to compel any involuntary action by the parties involved.

(c) Options. At the informal preventative intervention conference, Anishinaabek Family Services, with the voluntary agreement of the parties, may:

(1) Refer the child and the child's parent(s), guardian, or custodian to a community agency for

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assistance; or

(2) Suggest remedial strategies, including but not limited to referral to the peacemaking procedures, group or family counseling or other activities which are intended to prevent formal Dependency proceedings.

(d) Report. Anishinaabek Family Services shall set forth, in writing, conference findings and the disposition agreed to by the parties. The report shall be made available to all parties in interest.

(e) Petition. If an informal preventative intervention plan is agreed upon, Anishinaabek Family Services may recommend holding a petition for Dependency Adjudication in abeyance, or withdrawal of a petition reserving the option to re-file at a later date.

(f) Duration. Any informal preventative intervention plan shall conclude within six months of execution.

(g) Monitoring the Agreement. Anishinaabek Family Services shall review a child's progress in a preventative intervention plan every 30 days. If, at any time AFS concludes that positive results are not being achieved, the protective services worker may request that the presenting officer file a petition for Adjudication of Dependency.

(h) Privileged Information. No statement during an informal preventative intervention conference may be admitted into evidence at a Dependency adjudication hearing, Termination of Parental Rights Hearing or any other tribal court proceeding involving the child.

§ 118. Filing Child Protection Petition. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, as enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Authorization to File Petition.

(1) Who May File. Any person may file a complaint with Anishinaabek Family Services, the presenting officer or law enforcement alleging that child meets the definition of a Dependent child.

(2) Formal Proceedings. The presenting officer or the child protective services worker or the Anishinaabek Family Services program director (if the presenting officer is not available), may initiate formal child protection proceedings by filing a petition for adjudication of a Dependent child in Tribal Court on behalf of the Tribe and in the best interests of the child.

(3) Emergency Action Not Precluded. Nothing in this section shall preclude law enforcement or protective services personnel from taking emergency action under § 114 of this Code.

(b) Time Limitations. If a child has been removed from his or her home, a petition shall be filed with the Children's Court within three business days of the date of removal.

(c) Contents of Petition. The petition shall set forth the following with specificity:

(1) The name, birth date, sex, address social security number and tribal affiliation of the child;

(2) The basis for the Court's assumption of jurisdiction over the child;

(3) The specific allegations against each Respondent named in the petition, which form the grounds for the assertion that the child meets the definition of a Dependent child under this Code;

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(4) A plain and concise statement of the facts upon which the allegations contained in the petition are based, including the date, time and location at which the alleged facts occurred;

(5) The names, addresses, telephone numbers, social security numbers and tribal affiliation of the child's parents, guardians or custodians, if known;

(6) The names, relationship and addresses of all known members of the child's extended family and all former care givers, if known; and

(7) If the child is placed outside of the home, the name of person or agency with whom the child is placed, the facts necessitating the placement and the date and time of the placement.

(8) The specific provisions of the Children's Code alleged to be violated and the specific party alleged to have violated each provision.

§ 119. Service of Summons, Notices of Hearings, Subpoenas, and Notice to Putative Fathers. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) General. A party to a Petition to Adjudicate a Child as Dependent shall be given notice of all proceedings in Children's Court in any manner authorized by this Children's Code or rules of Tribal Court unless summons is required pursuant to § 119(b) below.

(b) Service. A summons and petition shall be issued and served upon each parent, guardian or custodian, and/or any adult person with whom the child resides, if other than a parent or a court-ordered custodian, directing such person(s) to appear before the court with the child on a date certain. The Court may direct that the child's appearance in Court is waived.

(c) Contents of Summons. The summons shall direct the Party(ies) to whom it is addressed to appear with the child, unless the child's appearance has been waived, at a time and place specified by the Court and must:

(1) Identify the nature of proceeding;

(2) Include a prominent notice that the proceedings could result in termination of parental rights and/or the possible consequences of failure to appear; and

(d) Manner of Serving Summons. A summons shall be served as follows:

(1) Personal Service. A summons required under this section must be served by delivering the summons into the hands of a named party and verified by affidavit or acknowledgement of acceptance of service or;

(2) Service by Mail. If personal service of the summons is impractical or cannot be achieved, the Court may direct that it be served by registered or certified mail, return receipt requested, addressed to the last known address of the party, and restricted delivery to the addressee.

(3) Substituted Service. The Court may direct any manner of substituted service, including publication if the Court finds that service cannot be made because the whereabouts of the person to be summoned has not been determined after reasonable effort.

(e) Time of Service. A summons shall be served as follows:

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(1) Personal Service: Seven calendar days after issuance of the Summons and at least 14 calendar days before a hearing on a petition to terminate parental rights. Summons and petition for Adjudication of a Child as Dependent shall be served at least 10 days prior to the Adjudication hearing.

(2) Certified or Registered Mail. 14 calendar days after issuance of the Summons, at least 21 calendar days before a hearing on a petition to terminate parental rights. Summons and petition for Adjudication of a Child as Dependent shall be served at least 10 days prior to the Adjudication hearing.

(3) Publication. The published notice, which does not require publication of the petition itself, shall appear in a newspaper in the county where the party resides, if known, and if not, in the county of the party's last known address, if known, and if not, the county where the action is pending. The published notice must appear one or more times 14 calendar days before the hearing.

(f) Notice of Hearing.

(1) Persons Entitled to Notice. The Court shall require proof that the following persons have been notified of each hearing:

(A) The parent(s) legal guardian or custodian;

(B) The attorney for each parent;

(C) The child if age 14 or older or a designated advocate for the child;

(D) All named Respondents;

(E) The Petitioner;

(F) The guardian ad litem; and

(G) Any other party the Court may direct to be notified.

(2) General. Notice of hearing must be served in writing or orally by the court and may be acknowledged on the record or mailed to the last known address at least seven calendar days prior to any hearing.

(3) Preliminary Hearing. When a child is placed outside of the home, diligent efforts shall be made to notify the parents, legal guardian or custodian or an extended family member pursuant to § 119(b) as soon as any hearing is scheduled. Notice may be in person, In writing, acknowledged on the record, or by telephone, and shall be documented and verified to the Court.

(4) Termination of Parental Rights Proceedings. Written Notice of a hearing on a petition to terminate parental rights must be personally served on the parties or acknowledged on the record at least 14 calendar days before the hearing.

(5) Failure to Appear. If a party fails to appear in response to a notice of hearing, the Court may order the party's appearance by summon, subpoena, or by order to show cause or the court may, upon verification of proof of service of Notice of Hearing:

(6) Issue a Notice of Default to the party stating that because of the party's failure to appear at preliminary hearings allegations in the petition will be presumed to be true and the court will proceed accordingly. Notice of Default should include the date and time of the hearing and a

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warning that failure to file a Motion to Set Aside Default within receipt of Notice of Default will result in a default adjudication of the child as Dependent and/or a Termination of Parental Rights.

(g) Subpoenas. The attorney for a party or the Court on its own motion may cause a subpoena to be served upon a person whose testimony or appearance is required. It is not necessary to tender advance fees to a person served in order to compel attendance. The court may use its civil contempt powers to enforce subpoenas.

(h) Waiver of Service. Except regarding Termination of Parental Rights hearings, A person may waive notice of hearing or service of process. The waiver shall be in writing or may be acknowledged on the record.

(i) Subsequent Notice. After a party's first appearance before the Court, subsequent notice of proceedings and pleadings shall be served on that party or, if the party has an attorney, on the attorney, either personally or by ordinary mail. A summons must be served prior to trial or termination hearing including a Notice of Hearing as provided by this Code.

(j) Putative Fathers. If the Court determines that the child has no identified legal father as defined in § 102(o), the Court shall take appropriate action as follows:

(1) Initial Testimony. The Court shall take initial testimony regarding the identity and address of any putative father. If the Court finds just cause to believe that an identifiable person is the natural father of the child, the Court shall direct that notice be served on that person in the manner as provided in this section. The Notice shall include the following information:

(A) A petition that has been filed with the Court;

(B) The time and place of hearing at which the putative father is to appear; and

(C) Notice that failure to attend the hearing may result in a default judgment or order adverse to the putative father and may be deemed to constitute a waiver of any claim to parental rights, a waiver of notice for all subsequent hearings.

(2) Hearing. After proof of service of notice upon the putative father is filed, the Court may conduct a hearing to determine if:

(A) Service and Notice was adequate to inform the putative father of the proceedings and his potential rights. If so, the Court may declare the putative father in default, order notice of default be served upon the putative father and all parties and proceed.

(i) Clear and convincing evidence establishes that the putative father is the natural father of the child; or

(ii) There is just cause to believe that another identifiable person is the biological father of the child. If so, the Court shall proceed under the rebuttable presumption that identified person is the biological father of the child in accord with this section; or

(iii) If, After diligent inquiry, the identity of the natural father cannot be determined. The Court may publish notice at least once in a manner calculated to alert any person who may be the father of the child. If no person comes forward within a time certain, the Court shall terminate the parental rights of the unknown father and proceed without further notice.

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(3) Waiver of Rights. The Court may find that by failing to appear and/or failure to comply with court orders to establish paternity, the putative father waives all rights to further notice, including the right to notice of termination of parental rights.

(4) Default: When a default judgment or order is rendered by the Court, the defaulted party must file a Motion to Set Aside Default demonstrating good cause for failing to appear at previous hearings, within seven days of receipt of Notice of Default. The Court may, 10 days after date of service of Notice of Default, enter the order or judgment and proceed.

§ 120. Preliminary Hearing. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006; as amended by Tribal Act #06-24.1729 enacted by Tribal Council on January 17, 2007.]

(a) Child Released to Parent. If the child has been released to his/her parent, guardian or custodian, the Court shall conduct a preliminary hearing within seven working days after the filing of the petition to determine whether probable cause exists to believe that the child continues to meet the definition of a Dependent child and if further services be provided.

(b) Child Placed Out of Home. If the child is placed out-of-home, the Court shall conduct a preliminary hearing within three business days after the filing of the petition to determine if:

(1) Just cause exists that the child met the definition of a Dependent child at the time of removal; and

(2) Conditions and circumstances which gave rise to the removal continue to present a substantial risk of harm to the child's life, physical health, emotional, developmental or mental well-being; and

(3) Any appropriate alternative, except continued placement of the child, is reasonably available to adequately safeguard the child from such risk.

(c) Parent, Guardian or Custodian Not Present. If the child's parent, guardian, or custodian does not appear at the preliminary hearing, the Court shall inquire about the adequacy of efforts to notify and to obtain the presence of the party. If it appears that further efforts are likely to produce the party, the Court shall recess for not more than 24 hours and direct the petitioner to make continued efforts to obtain the presence of the party. The preliminary hearing may be conducted in the absence of the party.

(d) Preliminary Hearing Procedure. The Court shall:

(1) Read the allegations in the petition in open court, unless the reading of the allegation is waived by all parties;

(2) Advise all Respondents, of the right to have counsel represent them, at their own expense;

(3) Advise all Respondents of their right to a trial on the allegations in the petition;

(4) Advise all Respondents of their right to remain silent; and

(5) Advise all Respondents of their right to plead responsible, not responsible, no contest or stand mute as to the allegations in the petition, and accept a plea on the allegations.

(6) Appoint a guardian ad litem for the child(ren) if deemed appropriate under the circumstances or

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upon request of any party in interest.

(e) Establishing Probable Cause. The Court, in determining whether just cause exists that the child meets the definition of a Dependent child shall hear testimony and determine if:

(1) At the time of removal and/or filing of the petition, the child(ren) were at risk of physical, emotional or developmental harm as defined in § 102 of this Code and that those named as Respondents to the petition were likely to have caused, by act or omission, the risk of harm.

(2) At the time of removal, or filing of the petition, the out-of-home placement of the child was the least restrictive means of ameliorating the risk of harm and remains an appropriate placement under the circumstances.

(3) At the time of the preliminary hearing, The child(ren) would remain at risk of harm if returned to the custody of Respondents and that adequate services are being provided to facilitate the reunification of the family.

(f) Just Cause Not Found. If just cause that the child meets the definition of a Dependent child is not found to exist, either at the time of removal or at the time of hearing, the Court shall dismiss the petition and the child shall be released to the custody of any or all Respondents.

(g) Just Found.[10] If the Court finds that just exists that the child meets the definition of a Dependent child, the Court:

(1) Upon entry of a plea of responsible or no contest, by any or all Respondents, the Court shall set a time and date for Disposition hearing regarding the pleading parties.

(2) Shall order the Respondents who plead not responsible or stand mute to appear at an adjudication hearing on a date and time set by the Court; and

(3) May release the child to the custody of any or all Respondents under such reasonable terms and conditions as are necessary to ensure the physical, emotional, or mental and developmental well-being of the child; or

(4) Upon entry of a plea, may order alternative placement of the child with someone other than any or all Respondents after determining that:

(A) Conditions of current placement of the child are inadequate to safeguard the child's health and welfare and serve the best interests of the child(ren) or that placement is not the least restrictive available as defined in this Code.

(B) A more appropriate or less restrictive placement has become available and the ability to needs of the child that would be met in alternative placement outweighs the adversity of transfer of placement.

(C) The alternative placement substantially meets GTB requirements and standards for the provision of care and criminal background check has been conducted on each person who will have care and control over the child.

(h) Court Ordered Evaluations and Assessments. The Court may, at any time after conducting a preliminary hearing at which just cause to proceed upon a Petition for Adjudication of Dependency is found, order any involved child, parent, guardian, or custodian or any family member or extended

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10. Editor's Note: So in original. Apparently should be "just cause."

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family member, who may have contributed the conditions or situation that gave rise to the Petition to undergo a criminal background check, a physical, mental, psychological or substance abuse evaluation or assessment by a qualified professional.

(i) Consistent with 42 U.S.C. § 670, Subchapter IV, Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services; and specifically, 42 U.S.C. § 671, State Plans for Foster Care placement and adoption, the Tribal Council hereby finds that since the Tribe is not a direct eligible recipient for Title IV-E funding, the Tribe will follow the federal regulations governing foster care placements under 45 CFR, Section 1356.21(c), which specifically provides that following:

"(c) Contrary to the welfare determination. Under Section 472(a)(1) of the Act, a child's removal from the home must have been the result of a judicial determination (unless the child was removed pursuant to a voluntary placement agreement) to the effect that continuation of residence in the home would be contrary to the welfare, of that placement would be in the best interest, of the child. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care."

Therefore, the Tribal Court shall make findings consistent with the above provisions of federal law for purposes of funding foster care placement.

§ 121. Adjudication of Dependency of a Child. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Purpose. The Court shall conduct an adjudication hearing for the purpose of determining if child meets the definition of a Dependent child and that reasonable efforts to reunify the family have been made by AFS and other service providers.

(b) Commencement. The adjudication hearing shall commence as soon as possible but no later than 45 calendar days after the preliminary hearing. Any party in interest may request an expedited Adjudication of Dependency hearing by Motion.

(c) Continuances. Continuance or adjournment of adjudication hearings may be granted by the Court upon oral or written Motion if:

(1) All parties stipulate to the continuance or adjournment;

(2) Pretrial procedures cannot reasonably be completed;

(3) The Court finds that the testimony of a presently unavailable witness is needed and continuance or adjournment will facilitate the appearance of the witness;

(4) The Court determines that material, new evidence has or will become available and that continuance or adjournment would serve the interest of justice in facilitating the timely discovery process.

(5) A Respondent requests an opportunity to obtain legal counsel [one time only for up to 14 calendar days]; or

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(6) For good cause shown that continuance or adjournment would serve the best interests of the child and the interest of justice.

(d) Closed Proceedings. The general public shall be excluded from the proceedings and only the parties, their counsel, witnesses, the guardian ad litem and other persons determined to be material to the proceedings by the Court shall be admitted. Witnesses may be excluded from the courtroom during the taking of evidence from other witnesses upon direction of the court and oral Motion by any of the parties. Parties may not be excluded from the courtroom.

(e) Evidence.

(1) Formal Rules Do Not Apply. The formal rules of evidence shall not apply at Children's Court. All reliable, probative and material evidence may be admitted at the trial and may be relied upon by the Court. Hearsay evidence is not admissible except as provided for MRE 804 or pursuant to any general rules of evidence promulgated under authority of the GTB Civil and Criminal Codes. In determining the admissibility of evidence, the court may use the Michigan Rules of Evidence as a guide.

(2) Cross-examination. The parties shall be afforded an opportunity to examine and controvert all evidence presented including written reports received by the Court and shall be allowed to cross-examine individuals who generated the reports whenever those individuals are reasonably available.

(3) Speaker telephones. The Court may rely upon conference telephonic or other electronic devices to permit material and probative testimony by witnesses unable to appear in person to testify. The right to cross-examine telephonic witnesses must be preserved.

(f) Burden of Proof. GTB has the burden of proving the allegations in a Petition for Adjudication of Dependency by clear and convincing evidence. If the Court finds that the Tribe has met its burden of proof, the Court shall make findings as to the specific grounds for Adjudicating a child to be Dependent and for the assumption of continued jurisdiction by the Tribal Court. The child shall become a temporary ward of the Tribal Court.(g) Allegations Not Sustained. If any or all allegations asserted as the grounds for Adjudication of a child as Dependent are not sustained, the Court shall dismiss the unsustained allegations and make findings on all remaining allegations. If all allegations are not sustained by clear and convincing evidence, the Petition for Adjudication of Dependency shall be dismissed and the child release from the custody of Tribal authority.

§ 122. Disposition Hearing. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, as enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Purpose. A disposition hearing shall be subsequent to the entry of an Order of Dependency, conducted to determine a plan of remedial measures designed to achieve the reunification of the family or, concurrently a preliminary permanency plan for termination of parental right. Factors which shall determine disposition of a child adjudicated as dependent and a remedial plan shall include:

(1) A child is properly within the Court's jurisdiction, and when applicable;

(2) A Respondent who has been adjudicated to be responsible for the abuse or neglect of a child(ren) under the jurisdiction of the Court;

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(3) Children residing within the same household as a child adjudicated as dependent or a child born during the period in which the Court retains jurisdiction over a child adjudicated to be Dependent.

(b) Disposition Immediately Following Adjudication. A disposition hearing may be heard immediately after the adjudication. The interval, if any, between the adjudication and the disposition, is within the discretion of the Court but shall not to exceed 15 business days after the entry of Order of Dependency.

(1) Child in Placement. When a dependent child is in placement, the interval between adjudication and disposition may not exceed 30 business days except for good cause.

(2) Notice. If a disposition hearing is not held immediately after the adjudication, notice of hearing may be given by scheduling it on the record in the presence of the parties or in accordance with § 119, Service of Summons, Notices of Hearings, Subpoenas, and Notice to Putative Fathers.

(c) Proposed Case Service Plan. The Anishinaabek Family Services or its agents shall prepare a written report describing all reasonable and appropriate alternative dispositions, including reports and recommendations of protective service workers. The report shall contain a specific, concurrent plan for placement, care and assistance to the child, and reunification requirements for all parties. A plan shall include:

(1) Detailed Explanation. The report shall contain a detailed explanation of the necessity for the proposed remedial or reunification plan requirements and projected benefits to the child and a rough time line for meeting requirements of the plan. Boilerplate plans are prohibited and each party shall receive individual consideration in executing plan requirements.

(2) Specific Reasons Underlying Placement Recommendation. If the report recommends out of home placement it shall state the specific reasons underlying the recommendation and state the proposed placement plan.

(3) Due Date. Anishinaabek Family Services or its agents shall present the case plan to the Court, the child advocate, and the presenting officer, the respondents' parents or the respondents' attorney(s) at least three days before the disposition hearing.

(4) Children over the age of 14 may participate in planning and generating the reunification plan but shall participate in the planning ort generation of preliminary permanency plans for termination of parental rights. All parties in interest shall be entitled to participate in the planning and generation of reunification plans but not in the planning and generation of preliminary permanency plans for termination of parental rights.

(d) Evidence. All probative and material evidence, including oral and written reports, may be admitted, even though such evidence may not be admissible at trial. When issuing its Disposition Orders, the Court shall consider the case Disposition plan and any report by an agency responsible for the care and supervision of the child, concerning efforts to prevent the break up of the family, or to rectify conditions that caused removal of the child from the home.

(1) Cross-examination. The parties shall be given an opportunity to examine and controvert evidence including written reports so received and may be allowed to cross-examine individuals generating reports. All reports entered into evidence for purposes of Disposition Orders shall be admitted only upon establishment of proper foundation.

(2) Speaker Phones. The Court may rely upon conference telephonic or other electronic devices that

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permit all those appearing or participating to hear and speak to each other.

(3) No Assertion of Privilege. No assertion of an evidentiary privilege, other than the privilege between attorney and client, shall prevent the receipt and use, at the disposition, of materials prepared pursuant to a Court ordered examination, evaluation, assessment, interview or course of treatment.

(e) Disposition Orders.

(1) Order of Disposition. The Court shall enter Disposition Orders after considering the Disposition plan and other evidence offered bearing on disposition. The Court shall approve a Disposition Plan and may order compliance with all or part of the plan. The Court may enter such orders as it deems necessary in the best interests of the child(ren). Disposition Orders shall state whether reasonable efforts have been made to prevent the breakup of the family under the circumstances of the case. The Court will advise all parties that a concurrent, preliminary permanency plan for termination has been submitted to the Court for review and that the plan may be effectuated as to a particular Respondent if and when there is a showing of substantial non-compliance with the reunification plan.

(2) Disposition Priorities. If a child has been adjudicated as dependent, the Court may order, by priority:

(A) The child and other children residing within the same household to remain with any or all of the Respondents, subject to such conditions as the Court may prescribe;

(B) Placement of the child and other children residing within the same household with a relative within the primary service area of the GTB, subject to such conditions as the Court may prescribe;

(C) Placement of the child and other children residing within the same household in a licensed foster home within the primary service area of the GTB, subject to such conditions as the Court may prescribe placement of the child and other children residing within the same household in a group home or residential care facility designated by the Court;

(D) Placement of the child and other children residing within the same household with a relative outside of the GTB service area, subject to a plan for monitoring, visitation and coordination with other agencies within the jurisdiction of the placement; or

(E) The presenting officer to file an expedited petition to terminate parental rights under this Code.

(F) Acceptance or rejection of a disposition plan in its entirety.

(f) Order for Reimbursement for Care. Respondents may be ordered by the Court to reimburse the Tribe and/or the Michigan Family Independence Agency for the cost of care and placement. Reimbursement will be based on State of Michigan Child Support Guidelines that have been adopted by the Tribal Council.

(g) Child Support. Respondents may be ordered by the Court to make child support payments for children placed with relatives or friends who are not eligible for foster care payments or payments are not sufficient to cover the cost of caring for the children.

(h) Amendments. As long as a child remains a ward of the Court, a Disposition Order may, upon Motion

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by any party in interest, be amended or supplemented at any time. Emergency Motions to modify or supplement a Disposition order may be granted ex parte upon a finding by the Court that just cause exists and the best interests of the child will be served. Notice of ex parte modifications or supplemental Orders must be served on all parties within 48 hours of entry of the modification or supplemental order.

(i) Objections to ex parte modifications or supplemental Disposition Orders must be filed with the Court within seven days of entry of the Order. If objections are timely filed, the Court shall set an emergency hearing within three days from the date of the date of filing of objections. The Court may Notify the parties of the hearing by telephone so long as the Notice is duly recorded in the case file.

§ 123. Dependency and Disposition Review Hearing. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Review. The Disposition Order shall be reviewed at least once every six months.

(b) Notice of Review. Notice of the review hearing shall be provided to all parties by acknowledgement on the record or by ordinary mail as provided in § 119(f).

(c) Scope of Review. At a review hearing, the Court shall make findings regarding compliance by all parties with Disposition Orders prepared pursuant to § 122 and the previous orders of the Court, including:

(1) Services. Compliance with the reunification requirements of the Disposition Order with respect to services provided to the child and Respondents, and whether the parties have substantially complied with requirements and demonstrate progress toward reunification.

(2) The adequacy and effectiveness of the services being provided to the family and the likelihood that specific services will result in improvement in the circumstances which led to removal of the children and eventual reunification.

(3) Visitation. Compliance with a reasonable reunification plan with respect to visitation between Respondents and child, child and siblings and child and extended family members. The Court shall make findings as to the cause of non-compliance with the orders and take action to ensure that children and their families receive appropriate and adequate visitation.

(4) Other Provisions. The extent to which a Respondent has complied with each provision of the Disposition Order, prior Court orders and the likelihood that compliance will continue shall be considered when extending, modifying or issuing new Disposition Orders.

(5) Continued Separation. Likely harm to the child(ren) if out of home placement is continues.

(6) Reunification. Likeliness of continued risk of harm to the child(ren) if returned to the custody of the Respondent(s).

(d) Extent of Progress. After review of the reasonableness of reunification portion of the disposition plan, the Court shall determine the extent of progress made toward meeting the goals of the plan within the general timelines set forth in the plan. The Court may modify any part of the plan including, but not limited to, the following:

(1) Additional Services. Additional services necessary to rectify the conditions and circumstances cited in the petition or new obstacles to reunification that have arisen since entry of the Order of

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Disposition.

(2) Additional Actions. Additional actions to be taken by the parties to rectify the conditions and circumstances that caused the child to become adjudicated as dependent.

(e) Continued Placement. At a review hearing the Court shall determine the continuing necessity and appropriateness of the child's placement. The Court may continue the placement; order the return of the child; continue or modify the original Disposition Order, enter a new disposition order or commence procedures for Termination of Parental Rights including implementation of the preliminary permanency plan for termination of termination and setting a date and time for Termination hearing.

(f) A Child Remaining in Placement. If Dependency is continued and the child remains in placement, the Court shall determine at each review hearing whether the placement should be reviewed before the next review hearing required under § 123(a) [at least every six months]. In making this determination, the Court shall consider the following:

(1) Respondent Motivation. The Respondents' demonstrated motivation to make necessary changes to provide a suitable environment for the child.

(2) Possibility of Early Return Home. Whether there is a reasonable likelihood that the family will be reunified prior to the next review hearing required by § 123(a).

(g) Return Without Hearing. If not less than seven days' notice is given to all parties prior to reunification of the family, and no party objects within seven days of receipt of, the Court may issue an Order of Reunification ex parte authorizing AFS to return the child to the custody of any or all Respondents.

(h) Reunification Upon Waiver and Consent. If all parties waive notice of hearing and consent to reunification, the AFS or another agency designated by the Court may return he child to the custody of any or all Respondents. If reunification is executed in this manner AFS shall monitor the progress of the family for a period of 30 days if no cause arises to continue the Dependency of the child, the presenting officer will seek dismissal of Orders of Dependency and closure of the case.

(i) Agency Report. An agency report shall be filed with the Court at least three working days prior to the review hearing and copies provided to all parties or their representatives. The report shall be offered into evidence.

§ 124. Permanency Planning Hearing. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, as enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Timetable. If a child is adjudicated to be Dependent and either insufficient progress toward reunification has been made, or the Court has Ordered the implementation of a preliminary permanency plan, or aggravated circumstances apply, a Petition for Termination of Parental Rights may be filed. The Court shall conduct a permanency planning hearing not more than 12 months after entry of Order of Disposition and at least 30 days prior to any Termination hearing. A permanency planning hearing may be combined with a disposition review hearing under § 123.

(b) AFS shall file a proposed final permanency plan at least 10 business days prior to the permanency planning hearing. Copies of the proposed plan shall be served upon all parties at least seven days prior to the hearing.

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(c) The Concurrent Permanency Plan: Should include a detailed proposal for shall include a strategy for continued placement, services and any potential reunification requirements that would result in dismissal of Petition to terminate and actual reunification of the family. The plan should clearly specify the goals for permanent placement, provision of services to the child and strategies for achieving those goals in the event that parental rights are terminated.

(d) Scope of Review. A permanency planning hearing shall be conducted to review the status of the child and the progress made toward successful completion of the reunification plan when the child has remained a ward of the Court for at least one year or when reunification efforts have been substantially unsuccessful and there is little likelihood that reunification goals can be achieved through new or modified plans or when aggravated circumstances as defined in this Code warrant immediate termination procedures. The Court shall weigh any evidence to support either continuation or adjournment of Termination hearing, dismissal of Petition for Termination before proceeding with Termination Hearing.

(e) Permanency Plan Options: Pursuant to a Permanency Planning Hearing, the Court may:

(1) Parental Rights Not Terminated. Determine if reunification would presently cause a substantial risk of harm to the child's life, physical health, or mental well-being and issue appropriate Orders. The Court shall view substantial noncompliance with the terms and conditions of a Disposition Order as evidence that reunification efforts have failed and reunification is not in the best interest of the child or return of the child.

(2) If the Court finds, by clear and convincing evidence, that no substantial risk of harm exists and the Respondents have substantially complied with a reasonable reunification plan, the child shall be returned to the custody of the Respondents and the Petition for Termination of Parental Rights Dismissed.

(f) Alternative Permanent Placement Plans. If the Court determines at a permanency planning hearing that reasonable reunification efforts have failed due to Respondent's substantial non-compliance with Disposition Orders or that abuse occurred under aggravated circumstances as defined in this Code, or that a child has been a ward of the Court for at least one year, it may order AFS to include any or all of the following in a final permanency plan:

(1) That the child(ren) be placed permanently with an identified relative within the primary service area of the Tribe;

(2) That the child(ren) be placed permanently with an identified relative who is outside the primary service area of the Tribe;

(3) A Termination Hearing proceed and a plan for adoptive placement be presented to the Court, including time lines;

(4) That a petition for guardianship under this Code be filed by the current caretaker of the child, the child or the Anishinaabek Family Services; or

(5) If other children from the same household as the child adjudicated to be Dependent remain in placement at the time of permanency planning, the Court shall order the final permanency plan to include those children pursuant to § 124(d)(1)(2) or (3) or 124(d)(4) or (5).

§ 125. Termination of Parental Rights. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal

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Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Purpose. The purpose of this section is to provide for the voluntary and involuntary termination of the parent-child relationship and for the substitution of parental care and supervision by judicial process. This chapter shall be construed in a manner consistent with the philosophy that the family unit is of significant value to the community, and will preserve the family whenever possible. When the break up of a family is required to ensure the health, safety and wellbeing of a child and it has been clearly demonstrated that those charged with the rights and responsibilities of parenthood are unable to adequately provide a safe and nurturing environment in which children may grow into functioning and contributing adults, those rights of parenthood will be terminated and the responsibilities vested in those persons or entities who may adequately provide for children. Termination of the parent-child relationship should be used only as a last resort, when, in the opinion of the court, all efforts have failed to avoid termination and it is in the best interests of the child concerned to proceed under this section.

(b) Grounds for Involuntary Termination. The Court may terminate the parental rights of a parent to a child adjudicated as Dependent and to children living within the same household as child so adjudicated, if the Court finds, by clear and convincing evidence, one or more of the following:

(1) Abandonment. The child has been abandoned under the following circumstances:

(A) A parent of a child is unidentifiable or has had substantially no contact with the child for 28 or more days and has not sought custody of the child during that period. For purposes of this section, a parent is unidentifiable if the parent's name and location cannot be ascertained after reasonable efforts have been made to locate and identify the parent; or

(B) A parent has left a child in the care of others, including a legal custodian for at least 30 days and has not provided for support of the child for a period of at least six months. The failure to provide support and to communicate with a child for a period of at least six months shall be presumptive evidence of intent to abandon the child.

(2) Physical Injury or Sexual Abuse. The child or a child's sibling has suffered physical injury, severe or prolonged physical or sexual abuse under either of the following circumstances:

(A) A Respondent's act or omission caused injury or abuse of a child and the Court finds that there is a reasonable likelihood that the child remains at risk of injury or abuse in the foreseeable future if reunified into respondent's custody and control; or

(B) A respondent who has or had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the Court finds that there is a reasonable likelihood that the child will suffer injury or abuse reunited into the custody of the Respondent.

(3) Un-rectified Conditions and circumstances. The Respondent was found to be subject to provisions of the Children's Code, which resulted in the adjudication of a child as dependent, and 12 or more months have elapsed since the issuance of an initial Disposition Order, and the Court, by clear and convincing evidence, finds either of the following:

(A) The conditions and circumstances that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child; or

(B) Other conditions exist that cause the child to meet the definition of a dependent child. The Respondent has not substantially complied with a reasonable reunification portion of a

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Disposition Plan and has received notice of, all applicable hearings and procedures, and it is in the best interests of the child to terminate the parental rights of the Respondent.

(4) Failure to Provide Proper Care. The Respondent, without regard to intent, has demonstrated an inability or unwillingness to adequately provide proper care or a nurturing environment for the child and efforts to reunify the family have failed because the Respondent shows no intent or inclination to substantially comply with a reasonable reunification plan, and it is in the best interests of the child that parental rights be terminated.

(5) Conviction of Violent or Sexual Crime. A Respondent has been convicted of a violent or sexual crime in which a family member or another child was a victim.

(6) Conviction of a Felony. A Respondent has been convicted of a felony that is of a nature as to clearly demonstrate the Respondent's unfitness as a parent.

(7) Imprisonment for More than Two Years. A Respondent is sentenced to serve actual time of incarceration of two years or more and has not provided for the child's proper care and custody and support for the period of incarceration, and there is no reasonable expectation that the Respondent will be able to provide proper care and custody within a reasonable time considering the age of the child.

(8) Parental Rights to Siblings Terminated. Parental rights to one or more siblings of a child, have been terminated within the past seven years due to serious or chronic neglect, physical or sexual abuse, and prior attempts to rehabilitate the Respondent(s) have been unsuccessful. This provision does not apply to children born after parental rights have been terminated unless the after born child(ren) meet the definition of a Dependent child have as defined in this code.

(9) Parental Kidnapping: A Respondent has absconded with a child from Court Ordered placement or has engaged in custodial interference with the Tribal Court's placement of a Dependent child.

(c) Termination at Initial Disposition. If a petition to terminate parental rights is filed under § 125(b)(1)(B)(5 - 9), the Court may enter an order terminating parental rights under § 128 at the initial disposition hearing.

(d) Quality of Evidence. The same rules of evidence which apply at Dependency adjudication shall apply in termination of parental rights proceedings.

(e) Termination of Parental Rights Order. An order terminating parental rights under this Code may not be entered unless the Court makes findings of fact, states conclusions of law, and includes the statutory basis for the order. The Court may state the findings and conclusions on the record or include them in a written opinion. If the Court does not issue a decision on the record following a Termination hearing, it shall file its decision within 28 days after the taking of final proofs.

(f) Voluntary Relinquishment of Parental Rights. Parental rights may be voluntarily terminated by written consent of both living parents, a legal guardian and custodian so long as parental rights of living biological parents have been terminated, executed in the presence, and with approval, of the Court. Relinquishment of Parental Rights shall not be accepted or acknowledged by the Court prior to 10 days after birth of a child. The Court shall make findings of fact to ensure that the person seeking to terminate parental rights has been advised of and understands their rights and the consequences of voluntary termination prior to approving Orders of Termination. A person who wishes to relinquish parental rights shall be provided an interpreter if he/she does not understand English. Consent to voluntary termination of parental rights may be withdrawn prior to the entry of the final Order of

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Termination.

(g) General Provisions of Orders of Termination: Child's Continued Right to Benefits. An order terminating the parent-child relationship shall not bar entitlement of a child to any benefit due the child from any third person, agencies, state or the United States, nor shall any action under this Code be deemed to affect any rights and benefits that child derives from the child's descent from a member of a federally recognized Indian tribe.

(h) Advise of Right to Appeal. Immediately upon entry of an involuntary order terminating parental rights, the Court shall advise the respondent orally for the record or in writing of the right to appeal the final Order of Termination. Appellate review shall be by right. The clearly erroneous standard shall be used in reviewing the findings of the Children's Court on appeal from an order terminating parental rights.

(i) Post Termination Review Hearings. If a child remains a ward of the Court following the termination of parental rights, the Court shall conduct a review hearing, at least every six months to review and modify the final permanency plan. The Court shall make findings as to whether reasonable efforts have been made to establish permanent placement for the child in compliance with the final permanency plan and may enter such orders as it considers necessary in the best interests of the child.

§ 126. Authorization of Medical Treatment. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Court Authorization. At any time, regardless of whether a child is under the custody of the Court, the Court may authorize medical or surgical care for a child when:

(1) Parent Not Available. A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or

(2) Physician's Opinion. A physician informs the Court orally or in writing that in his/her professional opinion, the life of the child would be greatly endangered without certain treatment and the parent, guardian or other custodian refuses or fails to consent. If time allows in a situation of this type, the Court shall cause every effort to be made to grant the parent, guardian, or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life or health.

(b) Religious and Traditional Healing. In making its order, the Court shall give due consideration to any treatment being given the child by prayer, through spiritual means alone or through other methods approved by tribal customs or traditions or religions or if the child or his parent, guardian, or custodian are adherents of an established religious denomination that relies on this form of treatment in lieu of medical treatment, or practices the tribal customs, traditions or religion which is relied upon for such treatment of the child.

(c) Written Authorization. After entering any authorization under this section, the Court shall reduce the circumstances, finding and authorization to writing and enter it in the records of the Court and shall cause a copy of the authorization to be given to the appropriate physician, hospital, or both.

(d) Oral Authorization. Oral authorization by the Court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital. No physician or hospital nor any nurse, technician or other person under the direction of such physician or hospital shall be subject to criminal or civil liability in the Court for performance of care or treatment in reliance on the Court's authorization, and

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any function performed there under shall be regarded as if it were performed with the child's and the parent's, guardian's or custodian's authorization.

§ 127. Emancipation. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Emancipation by Operation of Law. Emancipation occurs by operation of law:

(1) When a minor is validly married;

(2) During any period in which a minor is on active duty with the armed forces of the United States; and

(3) For the purposes of consenting to routine, non-surgical medical care or emergency medical treatment to a minor when the minor is in the custody of a law enforcement agency and the minor's parent, guardian, or custodian cannot be promptly located.

(b) Emancipation by Court Order. An emancipation may also occur by Court order pursuant to a petition filed by a minor or children's advocate on behalf of the minor in the Children's Court.

(1) Contents of Petition. The petition must be signed by the minor and must include an affidavit by an adult individual having personal knowledge of the minor's circumstances, who believes that under the circumstances emancipation is in the best interest of the minor.

(2) Investigation. After the petition is filed the Court may assign AFS to investigate any allegations of abuse or neglect which arise from a petition for emancipation; appoint legal counsel for the minor; appoint legal counsel for the minor's parents, guardian, or custodian if they are indigent; or dismiss the petition if the minor's custodial parent does not consent and is providing support or if it is apparent that emancipation would not be the minor's best interests.

(c) Emancipation Order. The Court may issue an emancipation order if it determines by a preponderance of the evidence that emancipation is in the best interest of the minor and the minor establishes that:

(1) The minor's parent, guardian, or custodian does not object to the petition;

(2) The minor is at least 16 years of age;

(3) The minor is a resident of the Tribe's six-county service area;

(4) The minor has demonstrated ability to manage his/her financial affairs, including proof of employment or other means of support;

(5) The minor has demonstrated the ability to manage his/her personal and social affairs; and

(6) The minor understands his/her rights and responsibilities as an emancipated minor.

(7) The minor remains engaged in an education program.

(d) Right to Appeal; Rescission. The minor or a parent, guardian, or custodian of the minor may file an appeal from the Court's grant or denial of an emancipation petition or a minor emancipated by Court order may petition the Children's Court to rescind the order.

(e) Rights of Emancipated Minor. A minor emancipated by operation of law or by Court order will be considered to have the rights and responsibilities of an adult except for those specific constitutional

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and statutory age requirements regarding voting, use of alcoholic beverages, access to tribal minors' trusts, and other health and safety regulations relevant to the minor because of his/her age. A minor will be considered emancipated for the purpose of the following rights:

(1) To enter into enforceable contracts;

(2) To sue or be sued in his/her own name;

(3) To retain his/her own earnings;

(4) To establish a separate domicile;

(5) To act autonomously, and with the rights and responsibilities of an adult, in all business relationships;

(6) To earn a living;

(7) To authorize his/her own preventive health care and mental health care;

(8) To apply for a driver's license or other state or tribal license;

(9) To register for school;

(10) To marry;

(11) To apply to medical assistance programs administered under the State of Michigan Social Welfare Act or Indian Health Service or tribal health services;

(12) To apply for welfare assistance;

(13) If a parent, to make decisions and give authority in caring for his/her own minor child; and

(14) To make a will.

(f) Debts of Emancipated Minor. Parents of a minor emancipated by Court order are not liable for any debts incurred by the minor during the period of emancipation.

§ 128. Delegations of Parental Authority. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, as enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Power of Attorney. A parent, guardian, or custodian, or Anishinaabek Family Services may, by a properly executed power of attorney, delegate to another person, certain parental authority regarding the care, custody and property of a minor child. Said powers include but are not limited to: consent to admission to a hospital or school, consent to secure routine dental care, non-surgical medical care and emergency dental, medical or surgical treatment. Such delegation shall not include power to consent to marriage, non-emergency elective surgery or adoption. The delegation of parental authority shall be valid for no more than six months from the date of execution, and may be revoked in writing, at any time by the person or agency delegating the power. A person acting under a power of attorney may be referred to as an "attorney in fact," "agent" or "power of attorney." The delegation is renewable upon Motion to extend the term of delegation of parental authority filed in the Children's Court.

(b) Limited Guardianship. The Court may by written order, appoint a temporary guardian under such

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terms and conditions as the Court sets forth. A temporary guardianship may be modified or termination upon determination by the Court that it is in the best interests of the child to modify or terminate the guardianship. The parent and the child's extended family may be granted visitation rights with the child during the term of the guardianship by the Court. A temporary guardianship shall be established by parental consent only, and shall be terminated by the Court upon written Motion to Terminate a Guardianship. If the court finds that no visitation between parent and child shall occur during the term of the guardianship, the Court must make findings of fact to support suspension of visitation, and may direct AFS to investigate and reasonable belief that a child meets the definition of a Dependent child.

(c) Statutory Guardianship.

(1) Purpose. The Children's Court, when it appears necessary or convenient, may appoint guardians for persons under the Court's jurisdiction. Unless otherwise specified by the Court, an appointed guardian shall be responsible for the care, custody and education of the child until such child arrives at the age of 18 years, dies, is emancipated by a Court of competent jurisdiction, or until the guardian is legally discharged.

(2) Grounds. The Court may appoint a statutory guardian for a child if:

(A) Parental rights of both parents or of the surviving parent have been terminated or suspended by prior Court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetence, by disappearance, abandonment, or by confinement in a place of detention; or

(B) The appointment is necessary for the immediate physical, mental or developmental well-being of a child.

(3) Who May File. Any person or entity with a vested interest in the wellbeing of a child, including Tribal human resources, mental health services providers and the Anishinaabek Family Services, the child, if age 14 or older, a child's representative may file a petition for statutory guardianship. The petition may be initiated either by the proposed guardian or by the child if at least 14 years of age.

(4) Notice. Before appointing a guardian, the Court must reasonably provide notice of filing of a Petition for Statutory Guardianship to all interested parties, including but not limited to, parents custodians, agencies and person having responsibility for the care of the child, to the child, and to other relatives of the child as the Court may deem proper.

(5) Contents of Petition. A petition for guardianship shall include the following to the best of the petitioner's knowledge, information and belief:

(A) The full name, sex, date, social security number and place of birth, residence and tribal affiliation of the proposed ward;

(B) The full name, address, tribal affiliation, social security number, relationship, if any, to the minor, and interest in the proceeding of the petitioner;

(C) The names and addresses of the minor's parents, if living, and of other persons known to have an interest in the petition for appointment of statutory guardian; the name and date of death of the minor's deceased parent or parents (certificate attached), if appropriate;

(D) A statement of the basis for the Court's assumption of jurisdiction;

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(E) The name and address of the person or agency having legal or temporary custody of the proposed ward;

(F) A statement of the reason that the appointment of a guardian is sought and whom the petitioner recommends as guardian; and

(G) A full accounting of the minor's assets and liabilities with an estimate of the value of any property owned, possessed, or in which the proposed ward has an interest, including any income and accounts receivable to which the proposed ward is entitled presently and in foreseeable future.

(6) Certified Petition. All petitions must be dated, signed, and certified by the petitioner and notarized or witnessed by a clerk of the Court.

(7) Statutory Guardianship Report. Upon the filing of a guardianship petition, the Court shall immediately request that the AFS, or other qualified agency provide a guardianship report including specific information regarding the proposed statutory guardian and the proposed ward.

(A) Contents of Report. The statutory guardianship report shall contain all pertinent information necessary to assist the Court in determining the best interests of the proposed ward; and shall include but is not limited to: a criminal background check on all adults living in the proposed guardian's household, a check of tribal and state records regarding any substantiated claims of child abuse and/or neglect.

(B) When Report Due. No Orders granting Statutory Guardianship shall be issued until the statutory guardianship report has been completed, submitted to and considered by the Court. The report shall be submitted to the Court no later than 10 days before a Statutory Guardianship hearing. The Court may order additional reports as it deems necessary and extend the time for filing of those reports as deemed necessary.

(8) Powers and Duties of Guardian. To the extent that it is not inconsistent with the terms of any order of the Court, a guardian has the following powers and duties:

(A) The statutory guardian is entitled to custody of the ward and shall make provisions for the ward's care, comfort, and maintenance, and shall, as appropriate to the ward's needs, arrange for training, education, employment, medical care and rehabilitation. The statutory guardian shall be responsible for reasonable care of the ward's clothing, furniture, vehicles, and other personal property in the ward's possession during the term of the guardianship.

(B) In arranging for a ward's domicile, the statutory guardian shall give preference to places within the tribal reservation over places not on the reservation or within the GTB six-county service area, if potential domiciles are substantially equivalent. The guardian shall give preference to places that are not treatment facilities unless in-patient medical or psychological treatment has been necessary by appropriate medical evaluation. If the only available and appropriate domiciles are treatment facilities, the guardian shall give preference to tribally-based or approved treatment facilities.

(C) The statutory guardian shall have authority to consent to any medical, legal, psychological, or other professional care, counsel, treatment, or service on behalf of the ward. The statutory guardian may, with Court approval, give any other consent or approval on the ward's behalf that is reasonably required to ensure the health, safety and security of the

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ward, in the ward's best interest.

(9) Reimbursement. The statutory guardian is entitled to reimbursement from the ward's estate for reasonable and proper expenditures incurred in the performance of his/her duties as guardian. The Court may order monthly reimbursement payments to the guardian upon written request, subject to the availability of funds and an annual accounting.

(d) Conservatorship. The Court may, upon the filing of a Petition for Appointment of a Conservator appoint a conservator for a minor if, in the Court's opinion, a statutory guardianship is inadequate or not necessary to ensure the best interests of the child. A conservatorship shall not confer authority over the minor but shall provide the fiduciary power and duty to marshal and preserve the minor's assets and for paying the legitimate expenses incurred in providing care and maintenance for the minor, subject to the availability of funds and annual accounting to the court.

(e) Annual Reports. All limited guardians, statutory guardians and conservators shall file annual reports with the Tribal Court providing an update on the condition of the ward and an accounting of funds collected and funds expended on behalf of the ward. The reports shall be available for review by all parties demonstrating a justifiable interest in the ward.

(f) Annual Review Hearings. Annual review hearings shall be scheduled in conjunction with the filing of annual reports by limited guardians, statutory guardians and conservators. Any party with a justifiable interest in the welfare of the ward may request additional hearings.

(g) Resignation. Any limited guardian, guardian, or conservator who wishes to resign may petition the Court setting forth the reasons for the request. The Court shall review a final accounting prepared by the limited guardian, guardian, or conservator. If the Court is satisfied, It may accept the resignation, discharge the limited guardian, guardian, or conservator and appoint a successor. The limited guardian, guardian, or conservator remains liable for all matters occurring from the time of appointment to the time of discharge.

(h) Appointment of Successors. Upon the removal, death, or resignation of a limited guardian, guardian, or conservator, the Court shall appoint a successor following the same criteria provided for in the original appointment.

(i) Fiduciary Duty. All persons acting under a power of attorney, limited guardians, guardians, conservators and any person or agency appointed to act on behalf of a minor under this Code acts in a fiduciary capacity. As a fiduciary, one owes a duty to act in the best interest of the minor, exercising sound judgment and avoiding conflicts of interest. Any person acting under a power of attorney, limited guardianship, statutory guardianship, or conservatorship, who breaches or his/her fiduciary duty shall be liable for up to treble damages resulting from such breach.

§ 129. Adoption. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Purpose. The purpose of this section is to protect the rights and the welfare of Indian children, natural parents, and adoptive parents. It is the policy of the Tribal Council to promote the adoption of Indian children by members of the Tribe.

(b) Jurisdiction. The Court shall have jurisdiction over all adoptions in which the person to be adopted ("adoptee") is an enrolled member of, or eligible for enrollment in the Grand Traverse Band of Ottawa

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and Chippewa; or is an Indian child living within GTB's six-county service area who has significant ties to the GTB community.

(c) Who May File a Petition for Adoption. Any person over the age of 21 may file an adoption petition. Married or cohabitating persons maintaining a domicile together must make a joint petition, except where one person is the adoptee's natural parent.

(d) Parental Consent to Adoption. Adoption may be ordered by the Court upon filing of a Petition and written consent to voluntary termination of parental rights by both parents or legal guardian. The consent to termination must be executed in the presence of the Court or before a Notary Public. The Court make findings of fact that persons consenting to termination of parental rights for purposes of adoptive placement have been informed of the nature and consequences of their actions and that consent is both voluntary and informed.

(1) Minority-Age Status. The minority-age status of parent(s) shall not be a bar to the right of consent nor shall it invalidate such consent.

(2) Non-Consenting Natural Parents. The parental rights of non-consenting natural parents may be involuntarily terminated pursuant to § 128 of this Code. The Court may execute consent to adoptive placement of children of parents whose parental rights have been terminated.

(e) Withdrawal of Consent. Consent to voluntary termination of parental rights for the purposes of adoption may be withdrawn by a parent(s) at any time before the entry of the final order of adoption.

(f) Petition for Adoption. The petition for adoption shall be filed with the Court by the adopting parties. It shall be signed by the adopting parent(s) and shall contain:

(1) The full name, residence, documentary proof of the date and place of birth, social security number, and the tribal affiliation and degree of Indian blood of the adoptee;

(2) The full name(s), residence(s), date(s) and places(s) of birth, tribal affiliation and degree(s) of Indian blood, occupation(s), of the adoptive parents and the AFS certification of fitness.

(3) Proof of parental consent to the adoption and notice to the grandparents if applicable;

(4) A statement by the adopting parent(s) that it is the desire of the adopting parent(s) that the legal relationship of a parent and child be established between them and the adoptee; and

(5) A full description and statement of value of all property owned or possessed by the adoptee, to the best of the petitioner's knowledge.

(g) Investigative Report. Upon the filing of a petition for adoption, the Court shall request the Grand Traverse Band's adoption worker to inquire into, investigate, and report to the Court and the Anishinaabek Family Services, within 30 days regarding the stability of the adoptee for adoption, the financial ability, moral and physical fitness, and general background of the adopting parent(s); and to make recommendations on the proposed adoption. A criminal back ground check is required. The Court may also request any local, state or federal agency to provide assistance in obtaining information as to the suitability of the adopting parent(s) for the adoption.

(h) Recommendation of the Anishinaabek Family Services. Upon completion of the investigative report, the Tribe's adoption worker shall submit his/her report to the AFS in order to obtain a certificate of fitness to be included with the Petition for Adoption or Motion for Order of Adoptive Placement or Motion for Entry of Final Order of Adoption.

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(i) Initial Hearing. Within 10 days of the receipt of certification of fitness from AFS, the Court shall schedule a hearing on the petition for adoption.

(1) Notice. The adoptee, adopting parent(s), and all other interested parties shall be given notice of the hearing on petition for adoption.

(2) Appearance Mandatory. The adoptee and adopting parent(s) shall appear in person at the initial hearing.

(j) Waiver of Trial Custody Period. If the adoptee has been in the custody of the adoptive parent(s) for more than six months and AFS recommends adoption at the initial hearing on petition for adoption, the Court, upon a motion by the presenting officer, may waive the trial custody period and enter final adoption Orders. Any party in interest may file objections to waiver of trial custody period entry of final adoption orders within seven days of hearing.

(k) Final Hearing if Trial Custody Period Not Waived. Not less than 90 days, nor more than 120 days, after the adoptee has been in the custody of the adoptive parent(s), the adoptee and adoptive parent(s) shall appear before the Court. They shall report to the Court about the welfare of the adoptee, the current status of their home, and the desire of the adoptive parent(s) to finalize the adoption.

(l) Final Adoption Order; Extension of Trial Custody Period. If the Court is satisfied that the Interests of the adoptee are best served by the proposed adoption, the final decree adoption may be entered. The Court may order, or adoptive parent(s) may request, a six month extension of the trial custody period, after which a final adoption decree must be entered or the adoptee returned to the custody of the Court.

(m) Effect of the Final Adoption Order.

(1) Parent and Child Relationship. After the final adoption order is entered, the relationship between the adoptive parent(s) and adoptee shall be vested with all rights, duties and other legal consequences of a relationship between natural parents and a child and shall thereafter exist between the adoptee and the adoptive parent(s).

(2) Tribal Status Not Affected. The status of an adoptee as a member of the Tribe shall not be affected by adoption. An adoptee who is eligible for membership in the Grand Traverse Band shall be enrolled as a tribal member prior to the finalization of the adoption.

(3) Natural parents Relieved of Parental Responsibilities. After the final decree of adoption is entered, the natural parents, except a natural parent who is the spouse of an adoptive parent, shall be relieved of all parental responsibilities for such adoptee and have no right regarding the adoptee or right to inherit his/her property by descent or distribution.

(4) Assumption of Surname. Minors adopted by order of the Court shall assume the surname of the person(s) by whom they are adopted, unless the Court orders otherwise.

(5) Rights of Adoptees.

(A) Adoptees shall be entitled to the same rights of person and property as natural children or heirs of the adoptive parents.

(B) Adoptees shall be entitled to the society and companionship of their natural siblings.

(n) Tribal Membership. Any child who is legally adopted by a member of the Grand Traverse Band shall have membership rights as though he/she were the natural child of the adopting parent(s) pursuant to

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Article II, Section 1(b)(4)a., of the Tribal Constitution.

(o) Confidentiality of Proceedings and Record. Unless the Court otherwise orders, hearings held in proceedings under this section shall be confidential and shall be held in closed session, without the admission of any persons other than the interested parties and witnesses. All papers, records, petitions, or files pertaining to proceedings, except the final order of adoption, shall be maintained by the Court in locked files and shall not be released to anyone, except pursuant to Court order or consent of the adoptee executed after the adoptee attains the age of 18.

§ 130. Child Protection Records. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #0220.1147, enacted by Tribal Council in Special Session on August 28, 2002; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Children's Court Records. A record of all hearings under this Code shall be made and preserved. All Children's Court records shall be confidential and shall not be open to inspection to anyone except:

(1) A child who has come under the jurisdiction of the Children's court or the child's legal representative.

(2) The parent(s), guardian, or custodian; of a child who has come under the jurisdiction of the Children's Court.

(3) The prospective adoptive parent(s); of a child who comes within the jurisdiction of the Children's Court

(4) Children's Court personnel directly involved in the handling of the case; and

(5) An adult who, as a child, came within the jurisdiction of the Children's Court.

(6) Any other person by order of the Court, having legitimate interest in the particular case or the work of the Court.

(b) Law Enforcement and Anishinaabek Family Services Records. Law enforcement and AFS records and files concerning a child shall be kept separate from the records and files of adults. All law enforcement and the Anishinaabek Family Services records shall be confidential and shall not be open to inspection to anyone except:

(1) The child; who is or was the subject of case opened by law enforcement or AFS.

(2) The parent(s), guardian, or custodian; of child who is or was the subject of case opened by law enforcement or AFS, so long as parental rights have not been terminated.

(3) The child's legal representative.

(4) Law enforcement and human services personnel, including Anishinaabek Family Services, the Multi-Disciplinary Team and any tribal entity directly involved in the handling of the case;

(5) Children's Court personnel directly involved in the handling of the case; and

(6) An adult who was the subject of a case opened by law enforcement or AFS which came under the jurisdiction of the Children's Court.

(7) Any other person by order of the Court, having legitimate interest in the particular case or the

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work of the Court.

§ 131. Rehearings. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) Time and Grounds. A party may seek a rehearing or new trial by filing a written motion stating the basis for the relief sought within 28 days after entry of a final order. The Court may entertain an untimely motion for good cause shown. A motion will not be considered unless it presents a matter not previously presented to the Court, or presented but not previously considered by the Court, which if true, would cause the Court to reconsider the matter.

(b) Notice. All parties must be given notice of the motion for rehearing or new trial in accordance with § 119.

(c) Response by Parties. Any response by parties must be in writing, filed with the Court, and served on the opposing parties within five days after receipt of notice of the motion.

(d) Procedure. The judge may affirm, modify, or vacate the decision previously made, in whole or in part, on the basis of the record, the memoranda prepared, or a hearing on the motion, whichever the Court in its discretion finds appropriate.

(e) Hearings. The Court need not hold a hearing before ruling on a motion for rehearing or new trial. Any hearing conducted shall be in accordance with the rules for disposition hearings. The Court shall state the reason for its decision on the motion on the record or in writing.

(f) Stay. The Court may stay any order pending a ruling on the motion.

§ 132. Appeals. [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #05-23.1603 enacted by Tribal Council on March 29, 2006.]

(a) Who Can Appeal. Any party to a Children's Court proceeding may appeal a final decision of the Tribal Court with the GTB Appellate Court, except in those instances in which final order or judgment of the court was by consent of the parties. An order terminating parental rights is appealable by right.

(b) Time for Taking Appeal. Any party seeking to appeal a final Children's Court order or judgment shall file a written notice of appeal with the Court within 28 days of entry of the final order.

(c) Standard of Review. The clearly erroneous standard shall be used in reviewing final decisions of the Children's Court.

(d) Record. For purposes of appeal, a record of proceedings shall be made available to all parties to the proceedings, legal counsel, and by court order, to those with a demonstrated interest in the outcome of the appeal. The party seeking the appeal shall pay all costs of obtaining the record.

(e) Stay on Appeal. A final Tribal Court order or judgment may be stayed upon order of the Appellate Court.

(f) Conduct of Proceedings. All appeals shall be conducted in accordance with the GTB Rules of Appellate Procedure as long as those provisions are not in conflict with the provisions of this Children's Code.

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§ 133. through § 136. (Reserved) [History: Revised Children's Code, adopted by Tribal Council on January 13, 1999; as amended by Tribal Council October 1, 1999.]

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CHAPTER 2
Adoption of Certain Michigan Statutes

§ 201. Adoption of Certain Michigan Statutes. [History: Tribal Act #89-777, enacted by Tribal Council on November 18, 1989.]

The Grand Traverse Band of Ottawa and Chippewa Indians Tribal Council hereby adopts and ratifies the following State of Michigan statutes and Acts to authorize the Tribal Court of the Grand Traverse Band to commit wards of the Court to the Department of Social Services for placement and supervision:

MCL 400.201;

MSA 25.381;

MCL 712.A.2;

MSA 27.3178 (598.2);

MCL 803.301 (Y.R.A.);

MSA 25.399 (51);

MCL 400.55 (h);

MSA 16.455 (h);

82 PA 398;

74 PA 150.

§ 202. Adoption of Michigan Child Support Formula Manual. [History: Tribal Act #97-15.432, enacted by Tribal Council on February 25, 1997.]

Legislative Background: The preamble to the resolution adopting the State of Michigan's Child Support Formula Manual reads as follows:

WHEREAS: The Grand Traverse Band of Ottawa and Chippewa Indians (GTB) became federally recognized as an Indian Tribe having a government-to-government relationship with the United States effective May 27, 1980 (see 45 Fed. Reg. 18321-322 (March 25, 1980)); and

WHEREAS: GTB is organized under a Tribal Constitution approved by the Secretary of the Interior on March 29, 1988; and

WHEREAS: GTB has a full governmental Tribal Council currently consisting of George E. Bennett, Tribal Chairman; Melvin Wilson, Vice Chairman; Gregory Bailey, Treasurer; Joyce Duford, Secretary; John McSauby, Councilor; Helen Paul, Councilor; and Michael Shananaquet, Councilor; and

WHEREAS: Pursuant to Article IV, Section 1(a), of the Tribal Constitution, the Tribal Council has the power to promote and protect the health, education, and general welfare of the Tribe and its members; and

WHEREAS: Pursuant to Part D of Title IV of the social security act, 42 U.S.C. 651 to 669, 45 C.F.R. 300-399, and MCL 552-517 et al., and the Michigan Friend of the Court Act of 1982, State Court Administrative Office's Friend of the Court Bureau have developed Michigan-based "formula to be used in establishing and modifying...child support." MCL 552.519(3)(a)(vi), consistent with Title IV(D); and

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WHEREAS: Howe v. Ellen Becker, 796 F. Supp. 1276 (D.S.D. 1992), 8 F.3d 1258 (8th Cir. 1993) held that the State and the United States Office of Child Support Enforcement must negotiate with Indian tribes to implement a tribal plan consistent with Title IV(D) or in the alternative negotiate cooperative agreements with Indian tribes concerning enforcement of child support obligations; and

WHEREAS: Shomin v. Raphael, File No. 91-2853-DP, is currently pending before the 13th Judicial Circuit Court for the County of Leelanau, State of Michigan, on a motion to vacate filed by the putative father based on the lack of subject matter jurisdiction; and

WHEREAS: The Tribal Council has filed a motion to intervene as amicus party; and

WHEREAS: The Tribal Council recognizes the validity of defendant putative father's motion and the holding in Howe; and

WHEREAS: The Tribal Council desires to adopt a Title IV(D) plan consistent with the State of Michigan.

(a) The Tribal Council hereby adopts the Michigan Child Support Formula Manual [M.C.S.F.M.], attached hereto, 1997, as the Tribal plan for purposes of Title IV(D), 42 U.S.C. §§ 651 — 669.

(b) The Tribal Council directs that the rules of decision for purposes of Tribal child support matters shall be governed by the guidelines in M.C.S.F.M. (1997).

(c) Matters subject to the exclusive jurisdiction of the Tribal Court under Title IV(D) actions shall be handled consistent with the policies and procedures of the Michigan Friend of the Court.

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CHAPTER 3
Uniform Reciprocal Enforcement of Support

§ 301. Short Title. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

This ordinance shall be known, and may be cited, as the "Uniform Reciprocal Enforcement of Support".

§ 302. Authority and Purposes. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

This ordinance is adopted pursuant to Article IV, Sections 1(a), (b), (c), (f), (i) and (1) of the Tribal Constitution (the "Constitution") of the Grand Traverse Band of Ottawa and Chippewa Indians (the "Grand Traverse Band"). The purposes of this ordinance are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

§ 303. Definitions. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

As used in this ordinance, unless the context requires otherwise:

(a) "state" includes any state, territory or possession of the United States and the District of Columbia and any federally-recognized Indian tribe having jurisdiction over divorce decrees and child support orders and any foreign state in which this or a substantially similar reciprocal law has been enacted.

(b) "initiating state" means any state in which a proceeding pursuant to this or substantially similar reciprocal law is commenced.

(c) "responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(d) "court" means the chancery division of any of the circuit courts of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(e) "law" includes both common and statute law.

(f) "duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree of judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial (legal) separation, separate maintenance or otherwise.

(g) "obligor" means any person owing a duty of support.

(h) "obligee" means any person to whom a duty of support is owed.

§ 304. Remedies Additional. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

The remedies herein provided are in addition to and not in substitution for any other remedies.

§ 305. Duty of Support. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

The duty of support imposed by laws of this state or by the laws of the state where the obligee was present

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when the failure to support commenced as provided in § 308 and the remedies provided for enforcement thereof, including any penalty imposed thereby, bind the obligor regardless of the presence or residence of the obligee.

§ 306. Demanding Surrender; Extradition Provisions Applicable. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) The Tribal Council of the Grand Traverse Band may:

(1) Demand from the governor of any other state or the Tribal Council of any other federally-recognized Indian tribe the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state; and

(2) Surrender on demand by the governor of any other state or Tribal Council of any federally-recognized Indian tribe any person found in this state who is charged in such other jurisdiction with the crime of failing to provide for the support of a person.

(A) The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand, although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom.

(B) Neither the demand, the oath, nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

§ 307. Relieved of Extradition. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

Any obligor contemplated by § 306 who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support in the courts of this state during the period of such compliance.

§ 308. Duties of Support Enforceable, Presumption. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) Duties of support enforceable under this ordinance are those imposed or imposable under the laws of the any state where the alleged obligor was present during the period for which support is sought.

(b) The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

§ 309. Reimbursement of Expenditures. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

Whenever the state or a political subdivision thereof has furnished or is furnishing support to an obligee, it shall have the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

§ 310. Jurisdiction; Petition. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) Jurisdiction of all proceedings hereunder shall be vested in the Grand Traverse Band Tribal Court.

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Proceedings for support hereunder may be initiated by petition filed in the Tribal Court of the Grand Traverse Band irrespective of the relationship between obligor and obligee.

(1) In all instances in which a public support burden has been incurred or is threatened, it shall be the duty of the prosecuting attorney to represent the petitioner in initiating and conducting proceedings under this ordinance; provided, that the petitioner may be represented in any proceedings by private counsel, at his own expense.

(2) Payments made to Grand Traverse Band Tribal members, wherever they may reside, from per capita distributions shall be subject to attachment under this ordinance.

(3) County Friend of the Court offices shall be recognized as initiating parties under this section.

§ 311. Petition; Verification; Contents; Information; Filing. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) The petition shall be verified and shall state the name and, so far as known to the petitioner, the addresses and circumstances of the respondent, his dependents for whom support is sought and all other pertinent information.

(b) The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent, including, but without limitation, by enumeration, a photograph of the respondent, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, tribal enrollment number or social security number.

(c) All petitions filed in accordance with this ordinance shall be filed by the clerk of the court as a miscellaneous matter.

(d) A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without permission as next friend.

§ 312. Petition; Copy to Court of Responding State; Forwarding and Filing. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) If the Tribal Court of the Grand Traverse Band, acting as an initiating state, finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, he shall so certify and shall cause three copies of the petition, the court's certificate and this ordinance, to be transmitted to the court in the responding state within the jurisdiction of which the respondent is alleged to reside or be present.

(1) If the name or address of such court is unknown, or if the respondent is no longer within the jurisdiction of the named court and the responding state has an information agency comparable to that established in the initiating state, such copies may be transmitted to the state information agency or other proper official of the responding state with request that it forward them to, and file them with, the proper court, and that such court acknowledge the receipt thereof to the initiating state.

(2) If the responding state is a foreign state, such copies shall be transmitted to the state department of social welfare for transmittal to the proper court of the responding state after determination

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concerning the statutes of reciprocity.

(b) When the Tribal Court of the Grand Traverse Band, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction, it may:

(1) As an initiating state, request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state; or

(2) As a responding state, obtain the body of the respondent by appropriate process.

§ 313. Duty of Court. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) When the Tribal Court of the Grand Traverse Band, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall:

(1) Docket the cause;

(2) Notify the prosecuting attorney of the country, who shall be thereby charged with the duty of carrying on the proceedings;

(3) Set a time and place for a hearing; and

(4) Take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

(b) If the Tribal Court of the Grand Traverse Band, acting as a responding state, is unable to obtain jurisdiction of the respondent or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state. If the respondent has been located in some other county of this state it shall not be necessary to obtain and amended petition but the original petition shall be forwarded to the circuit court in chancery of the county where the respondent has been located which court shall have jurisdiction regardless of the language of the petition.

(c) The court shall conduct proceedings under this ordinance in the manner prescribed by law for an action for the enforcement of the type of duty of support claimed.

§ 314. Order to Furnish Support. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order.

§ 315. Orders Transmitted to Court of Initiating State. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

The Tribal Court of the Grand Traverse Band, when acting as a responding state, shall cause to be transmitted to the court of the initiating state a copy of all orders of support or orders for reimbursement therefor.

§ 316. Additional Powers of Court. [History: Uniform Reciprocal Enforcement of Support

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Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) In addition to the foregoing powers, the Tribal Court of the Grand Traverse Band when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders, and in particular:

(1) Recognizance. To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the Court may deem proper to assure payment of any amount required to be paid by the respondent.

(2) Payment; Report. To require the respondent to make payments at specified intervals to the clerk of the court or the friend of the court, as specified in the order, and to report personally to such clerk or friend of the court at such times as may be deemed necessary and as required by such order.

(3) Contempt; Punishment. To punish the respondent who fails and refuses to obey and comply with the order of the court, having sufficient ability to comply, such punishment shall be imposed by the Court as a contempt of court, placing the respondent on probation or committing the respondent to jail for such period as said respondent shall continue to be in contempt, not to exceed one year.

(b) The Court may also order an assignment to the friend of the court of the salary, wages or other income of the person responsible for the payment of support and maintenance, which assignment shall continue until further order of the court.

(1) The order of assignment shall be effective one week after service upon the employer of a true copy of the order by personal service or by certified mail. Thereafter, the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the friend of the court until further order of the court.

(2) The person ordered to pay the support and maintenance shall inform the friend of the court immediately of any change which would affect the assignment of the disbursement thereof.

(3) An employer shall not use the assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee.

(4) Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected.

(5) The term "employer" as used in this section includes the state and any political subdivision thereof.

§ 317. Duties of Court When Acting as Responding State. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

The Tribal Court of the Grand Traverse Band, when acting as a responding state, shall have the following duties which may be carried out through the clerk of the court or the friend of the court, in counties having a friend of the court:

(a) Upon the receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state; and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made

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by the respondent.

§ 318. Duties of Court When Acting as Initiating State; Receipt and Disbursement of Payments. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

The Tribal Court of the Grand Traverse Band, when acting as an initiating state, shall have the duty which may be carried out through the clerk of the court or the friend of the court, in counties having a friend of the court, to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state.

§ 319. Husband and Wife Competent Witnesses. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

Husband and wife are competent witnesses (and may be compelled) to testify to any relevant matter in connection herewith.

§ 320. Orders of Support; Concurrent Jurisdiction. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) Any order of support issued by a court of this state when acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

(b) Every circuit court in chancery of this state shall have concurrent jurisdiction with the court issuing an order of support under this ordinance for the purpose of enforcing the order.

§ 321. Jurisdiction Not Conferred. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

Participation in any proceedings under this ordinance shall not confer upon any court jurisdiction of any of the parties thereto in any other proceedings.

§ 322. Foreign State, Declaration of Reciprocity; Revocation. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

(a) Where the social welfare commission is satisfied that reciprocal provisions will be made by any foreign state for the enforcement therein of maintenance orders made with this state, the social welfare commission, with the approval of the attorney general, may declare the foreign state to be a reciprocating state for the purpose of this ordinance.

(b) Any such order may be revoked by the social welfare commission, and thereupon the state with respect to which the order was made shall cease to be a reciprocating state for the purposes of this ordinance.

§ 323. Severability. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

If any section or provision of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of this ordinance shall

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not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

§ 324. Amendment or Repeal of this Ordinance. [History: Uniform Reciprocal Enforcement of Support Ordinance, adopted by motion by Tribal Council on December 20, 1994.]

This ordinance may be amended or repealed only by majority vote of the Tribal Council of the Grand Traverse Band in regular session.

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CHAPTER 4
Juvenile Code Revisited

§ 401. Purpose of the Code. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #02-20.1147, as enacted by Tribal Council in Special Session on August 28, 2002; and by Tribal Council motion, enacted December 20, 2017.]

The Grand Traverse Band of Ottawa and Chippewa Indians, referred to in this Code as "the Tribe," has determined that children are the Tribe's most valuable resource, and that the welfare of Tribal children is a vital concern of the Tribe;

(a) It is essential that Tribal resources, identity, and culture be preserved by providing for enhancement and strengthening of the family as the primary means of securing a vital Tribal community;

(b) The best interests of the Tribe and its children are served when the children of the Tribe receive the care and guidance necessary for their spiritual, emotional, mental, and physical development; all of which will prepare them to become contributing members of the Tribe;

(c) When problems involving Tribal children arise, the Tribal Court, with advice from Anishinaabek Family Services on neglect and abuse cases and the Tribal juvenile justice officer and/or the juvenile probation officer on juvenile offender matters, is best able to resolve the problems and provide Tribal children with the care and guidance that is necessary for their well-being;

(d) Tribal Court, whenever practical, is preferable to state court for consideration of matters involving Tribal children;

(e) When problems involving Tribal children arise and the Court must make a placement outside of the home, the best interests of the Tribe and its children are served by providing for their care and placement in an environment which will ensure that Tribal children receive the care and guidance necessary for their spiritual, emotional, mental, and physical development; and

(f) When problems involving Tribal children arise, the best interests of the community are served if Tribal Court has jurisdiction over all persons in the family or household who are a part of the problem, and/or the solution.

§ 402. Definitions. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) For purposes of this Code, the following definitions shall apply:

(1) Adult - A person 18 years of age or older.

(2) Advocate - A lay person permitted to represent a juvenile offender by the Tribal Court who has received training provided by the Tribal Court.

(3) Complaint - A formal or informal report to the prosecuting attorney containing allegations indicating that a juvenile under the jurisdiction of the Tribal Court has committed a delinquent act.

(4) Counsel - An attorney licensed by any state to practice law and admitted to practice in Tribal Court who, as an officer of the Court, provides legal assistance to any party during the course of

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any proceeding under this Code.

(5) Custodian - One who has physical custody of a juvenile and is providing food, shelter, and supervision to that juvenile.

(6) Delinquent Act - Any act or omission by a juvenile that is:

(A) A violation of the Grand Traverse Band Criminal Code;

(B) A failure to follow the lawful commands of parent(s), guardians, custodians, teachers, and administrators;

(C) Truancy as defined by the school in which the juvenile is enrolled or should lawfully be enrolled; or

(7) Detention - The placement of a juvenile in a physically restrictive facility.

(8) Guardian - A person other than the juvenile's parent, appointed by a court of competent jurisdiction, who is legally responsible for that juvenile.

(9) Juvenile - A person under 18 years of age. The prosecutor shall have the discretion to charge any juvenile who is 17 years of age as an adult.

(10) Juvenile Offender - A person who commits a delinquent act prior to his or her eighteenth birthday.

(11) Least Restrictive Alternative - Restrictions placed on the juvenile must be reasonably related to the Court's objective of correcting the delinquent behavior, and must be the least intrusive manner of achieving that objective.

(12) Notice - The method by which the Court informs the parties, counsel, and others of the time, and place of proceedings to be conducted by the Court.

(13) Petition - The instrument, which commences proceedings in the Court.

(14) Summons - The instrument with which the Court directs a party to appear before the Court.

(15) Tribal Land - Land held in trust for the benefit of the Tribe by the United States; any land in which the Tribe has a beneficial ownership interest, and all lands designated as Indian Country in 18 U.S.C. 1151.

§ 403. Jurisdiction and Court Authority. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; as amended by Tribal Act #08-26.1987, enacted by Tribal Council on December 17, 2008;; and by Tribal Council motion, enacted December 20, 2017.]

(a) Statement of Jurisdiction. The Tribal Court shall have jurisdiction over juvenile offender proceedings, if the juvenile is:

(1) A member of the Tribe and

(A) The alleged offense occurred on Tribal land; or

(B) The juvenile's primary residence is on Tribal lands and the juvenile commits an offense while on a Tribally sponsored trip off Tribal lands; or

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(C) Unless and until the Court transfers jurisdiction to the Adult Division of the Court, pursuant to § 414 of this Code; or

(2) Not eligible for membership in the Tribe but whose primary residence is on Tribal land and the alleged offense occurred on Tribal land or on a Tribally sponsored trip off Tribal land.

(b) Transfers From State Courts. The Tribal Court may accept transfers of cases from state courts if the alleged juvenile offender is a Tribal member and resides on Tribal lands.

(c) Transfers To State Courts. Upon the request of a parent or guardian, the Tribal Court may transfer a case to a state court if the alleged offense occurred on Tribal land, the alleged juvenile offender is a member of the Tribe or is eligible for Tribal membership, and the state court is willing to accept transfer.

(d) Community Problem. The Tribal Court shall have jurisdiction over all members of the family or household who are a part of the problem or who may be a part of the solution to the problem.

(e) Adjudication Classification. No adjudication of the status of any child under the jurisdiction of the Court shall be deemed criminal, unless the Court refers the matter to the Adult Division of Court.

(f) Closed Proceedings. Juvenile proceedings shall be closed to the general public to protect the privacy interests of the parties. Disposition of any juvenile proceeding, and evidence presented at such proceedings, shall not be admissible as evidence against the child in any other proceeding heard by another division of the Tribal Court system, except when the evidence is discovered by independent means.

(g) Authority to Cooperate. The Court is authorized to cooperate with any court or federal, state, tribal, public, or private agency; to participate in any diversion, rehabilitation, training programs, or other service programs; and to receive grants-in-aid to carry out the purposes of this code and may order any such non-tribal agency to be included in as interested parties in proceedings under this code.

(h) Least Restrictive Alternative. The least restrictive alternative applies to all disposition actions taken by the Court under this Code.

(i) Court Records.

(1) A record of all hearings under this Code shall be made and preserved.

(2) All Court records shall be confidential, and shall only be open to inspection by the following:

(A) The juvenile or his legal representative or advocate;

(B) The juvenile's parent(s), guardian, custodians, or their legal representatives or advocates.

(C) The Prosecuting Attorney.

(D) The Tribal Youth Intervention Specialist.

(E) Under 402(a)(6)(C), the Prosecuting Attorney and/or the Tribal Youth Intervention Specialist (or the designee of either) may coordinate with the school in which the juvenile is enrolled or should be enrolled and share information contained in court records sufficient to permit that school to provide intervention or services to the juvenile.

(F) A non-tribal agency pursuant to order of the court.

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(j) Law Enforcement Records.

(1) Law enforcement records and files concerning juveniles shall be kept separate from records and files of adults.

(2) All law enforcement records and files shall be confidential, and shall only be open to inspection by the following:

(A) The juvenile or his legal representative or advocate;

(B) The juvenile's parent(s), guardian, custodian, or their legal representative or advocate;

(C) The Tribal Prosecutor, who in actions under 402(a)(6)(C), may coordinate with law enforcement local to the school in which the juvenile is or should be enrolled to permit an investigation into a complaint against the juvenile's parent(s), guardian, or custodian, provided that such information disclosed shall not be used to prosecute the juvenile for any offense unless gathered independently;

(D) The Tribal Juvenile Justice Officer;

(E) The Tribal Youth Intervention Specialist;

(F) The Tribal Probation Officer.

(k) Expungement. When a juvenile who has been the subject of any proceeding before the Court, other than those delinquency adjudications related to sexual offenses that count as convictions and require the offender to be registered as a sex offender as described in Section 42 U.S.C. § 16911(8), or in proceedings in which the juvenile has been tried as an adult under 10 GTBC § 414 and convicted, attains his or her 21st birthday, the Court shall destroy both the Court and law enforcement records relating to that juvenile.

(l) Contempt of Court.

(1) Willful disobedience of, or willful interference with, an order of the Court constitutes contempt of court.

(2) The Court may punish an adult for contempt of court with a fine not to exceed $500, a jail term not to exceed 30 days, or both.

(3) A juvenile may be punished for contempt of court with extension of probation, additional probation conditions, a fine not to exceed $300, a jail term or detention not to exceed one week or any combination thereof.

(m) Medical Examination. The Court may order a psychiatric or psychological examination of a juvenile who is alleged to be a juvenile offender if issues of competence to stand trial or insanity are raised by the defense, or for any other reason that the Court deems appropriate. Reports shall be available to the defense and prosecuting attorney.

(n) Fingerprints. If latent fingerprints are found during the investigation of a offense and a law enforcement officer has reasonable grounds to believe that the fingerprints are those of a juvenile in custody, the officer may fingerprint the juvenile for the purpose of immediate comparison with the latent fingerprints; provided that the law enforcement officials have obtained the written approval of the Court prior to the taking of prints. Copies of the fingerprints shall be immediately destroyed if the comparison is negative or if a petition is not filed against the juvenile.

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(o) Appeal.

(1) For purposes of appeal, a record of the proceedings shall be made available to the juvenile, the juvenile's parent(s), guardian, custodian or legal representative. The party seeking the appeal shall pay costs of obtaining this record.

(2) Any party to a Court hearing may appeal a final order or disposition of a case by filing a written notice of appeal with the Court within 28 days of the final order of disposition.

(3) All appeals shall be conducted in accordance with applicable Tribal Codes and Court Rules.

§ 404. Procedural Rights: Notice Requirements. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) The notice and procedural rights listed in this Chapter shall be afforded parties in each of the following proceedings:

(1) Preliminary Hearing (§ 413).

(2) Transfer to Adult Division of Tribal Court (§ 414).

(3) Diversion (§ 415).

(4) Trial (§ 416).

(5) Disposition Hearing (§ 419).

§ 405. Notice. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) Notice of proceedings shall be given to:

(1) The juvenile.

(2) The juvenile's parent(s), guardian, custodian, or legal representative.

(3) All legal counsel of record.

(4) The Tribal Youth Intervention Specialist.

(b) Notice shall be given when a time for the proceedings has been established; provided at least 10 days is given before any non-preliminary hearing except in cases of emergency; provided further that notice is given as soon as possible in the case of preliminary hearings or in the event of an emergency.

(c) The notice shall contain:

(1) The name of the Court;

(2) The title of the proceeding;

(3) A brief statement of the substance of the allegations against the juvenile;

(4) The date, time, and place of the proceeding; and

(5) A statement of the right to counsel, as set forth in § 407(a) of this Code.

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(d) The notice shall be served in the following methods, if the Tribal Court feels it would be likely to provide actual notice to the party.

(1) Hand delivery to the person, by a Tribal law enforcement officer or appointee of the Court;

(2) Certified mail, if the summons cannot be served upon the person; or

(3) By the following method(s), if the Tribal Court feels it would be likely to provide actual notice to the party:

(A) Service upon relatives, neighbors, friends, or others who are likely to know the party's whereabouts. If the person, who receives the summons, denies knowledge of the party's whereabouts, such service shall not be deemed adequate;

(B) Service by legal notice in a daily publication or mailing of the Tribe circulated to the Tribal membership; and by posting the legal notice at the Tribal center; or

(C) Service by legal notice in a daily newspaper in the county of respondent's last known residence for a three-day period, the last day of which is at least 10 days prior to the hearing; and by posting the legal notice at the Tribal center.

§ 406. Summons. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) At least 10 days prior to a trial or disposition hearing, the Court shall issue summons to:

(1) The juvenile;

(2) The juvenile's parent(s), guardian, legal representative, or custodian;

(3) Any person the Court believes necessary for proper adjudication of the matter(s) before the Court; and

(4) Any person the juvenile believes necessary for proper adjudication of the matter(s) before the Court; subject to the Court's discretion.

(b) The summons shall contain the name of the Court and title of the proceedings; and the date, time, and place of the hearing.

(c) A copy of the petition shall be attached to the summons. The summons shall be served in the following order of preference:

(1) Hand delivery to the person, by a Tribal law enforcement officer or appointee of the Court;

(2) Certified mail, if the summons cannot be served upon the person; or

(3) By the following method(s), if the Tribal Court feels it would be likely to provide actual notice to the party:

(A) Service upon relatives, neighbors, friends, or others who are likely to know the party's whereabouts. If the person, who receives the summons, denies knowledge of the party's whereabouts, such service shall not be deemed adequate;

(B) Service by legal notice in a daily publication or mailing of the Tribe circulated to the Tribal membership; and by posting the legal notice at the Tribal center; or

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(C) Service by legal notice in a daily newspaper in the county of respondent's last known residence for a three-day period, the last day of which is at least 10 days prior to the hearing; and by posting the legal notice at the Tribal center.

(d) A person who has been issued a summons, who has received notice of hearing, and who fails to appear at the hearing, shall be held in contempt of court, unless good cause is shown why that person did not appear.

§ 407. Rights of Parties. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) Right to Counsel:

(1) The judge shall inform the juvenile and the juvenile's parent(s), guardian, legal representative or custodian of their right to retain counsel by reading the following statement: "you have a right to have a lawyer or other person represent you at this hearing. However, you or your family must pay any fees for such representation."

(2) If the parties are unable to pay for counsel, the judge shall make known to them any available services providing representation of which the judge is aware.

(3) If the parties appear at the hearing without counsel, the judge, after informing the parties of their right to counsel and the availability of legal representation, may grant a continuance, if they need additional time to seek counsel.

(b) The juvenile need not be a witness against, nor otherwise incriminate him/herself.

(c) A parent, guardian, or custodian may not be compelled to give testimony against him/herself or against the juvenile, consistent with Section 1(d), Article X of the Tribal Constitution.

(d) The Court shall give the juvenile, the juvenile's parent(s), legal representative, or custodian the opportunity to introduce evidence, to be heard on their own behalf, and to examine all witnesses.

§ 408. Juvenile Offender Procedure. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) Complaint. A complaint may be filed with the Tribal Prosecutor by a law enforcement officer or by a person who has knowledge of the facts alleged. The person who files the complaint shall sign the complaint, under oath. The complaint shall contain:

(1) Name, age, date of birth, address, name of custodial parent or guardian, tribal affiliation, tribal ID # if applicable;

(2) A concise statement of the facts upon which the allegations are based, including the date, time, and location at which the alleged act(s) occurred; and

(3) A list of witnesses known to the person who files the complaint.

(b) Petition. Proceedings under this Code shall commence upon the filing of a petition by the Tribal Prosecutor on behalf of the Tribe. The petition shall include:

(1) The name, birth date, address, tribal affiliation and ID # if applicable.

(2) The names and addresses of the juvenile's parent(s), guardians, or custodian;

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(3) Citation to the specific provision(s) of this Code which gives the Court jurisdiction of the proceedings;

(4) Citation to the Tribal Criminal Code provision(s) which the minor is alleged to have violated;

(5) If the juvenile is in detention or shelter care, the place of detention or shelter care and the time he/she was taken into custody;

(6) A statement of the facts which brings the juvenile within the jurisdiction of the Court; and

(7) A list of witnesses known to the tribe upon filing of the petition.

§ 409. Warrant. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

The Court may enter an order called a warrant, directing that a juvenile be taken into custody if:

(a) The Court finds probable cause to believe that the juvenile committed the delinquent act alleged in the complaint and there is probable cause to believe that the juvenile will fail to appear for a hearing on the matter; or

(b) If the juvenile is not taken into custody she/he is likely to endanger himself/herself or others.

§ 410. Custody. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

A juvenile may be taken into custody by a law enforcement officer if:

(a) The officer has reasonable cause to believe that a delinquent act has been committed and that the juvenile has committed the delinquent act; or

(b) A warrant pursuant to § 409 of this Code has been issued for the juvenile.

§ 411. Law Enforcement Officer's Duties. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

A law enforcement officer who takes a juvenile into custody, pursuant to § 410 of this Code, shall proceed as follows:

(a) Explain the following rights to any juvenile taken into custody prior to questioning:

(1) The juvenile has a right to remain silent;

(2) Anything the juvenile says can be used against the juvenile in court; and

(3) The juvenile has the right to the presence of an attorney or advocate during questioning.

(b) Release the juvenile to the juvenile's parent(s), guardian, or custodian and give such counsel and guidance as may be appropriate, unless shelter care or detention is necessary because:

(1) The juvenile is in danger of injury;

(2) The juvenile is under the influence of alcohol or controlled substances; or

(3) The juvenile will not cease illegal conduct and release is likely to result in injury to the juvenile

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or others.

(c) If the juvenile is not released, an officer shall make immediate and recurring efforts to notify the juvenile's parent(s), guardian, or custodian to inform them that the juvenile has been taken into custody and inform them of their right to be present with the juvenile until a determination of the need for shelter care or detention is made by the Juvenile Justice Officer or the Juvenile Probation Officer.

(d) If the juvenile is not released, the juvenile shall be taken, as soon as is practical, to the tribe's Juvenile Justice Officer or Juvenile Probation Officer for assistance with placement in detention or shelter.

§ 412. Detention and Shelter Care. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) A juvenile alleged to be a juvenile offender may be detained pending a court hearing, in any of the following locations, listed in order of preference:

(1) A foster care home on the reservation that has been approved by GTB Department of Human Services;

(2) A foster care facility on the reservation that has been approved by the GTB Department of Human Services;

(3) A private family home on the reservation that has been approved by the GTB Department of Human Services;

(4) A licensed foster care home off the reservation that has been approved by the Tribe;

(5) A licensed foster care facility off the reservation that has been approved by the Tribe;

(6) A private family home off the reservation that has been approved by the Tribe; or

(7) An approved detention facility within the State of Michigan.

(b) A juvenile who is 16 years of age or older may be detained in a jail or other licensed detention facility, used for the detention of adults only if:

(1) A facility in § 412(a) is not available or would not assure adequate supervision of the juvenile;

(2) Detention is in a cell separate from adults; and

(3) Adequate supervision is provided 24 hours a day.

(c) A juvenile who is 16 years of age or older may also be detained in a jail or other licensed detention facility used for the detention of adults if that juvenile is intoxicated, provided that:

(1) A foster care or juvenile detention facility is not immediately available or is not equipped to hold/supervise the intoxicated juvenile; and

(2) Detention is in a cell separate from adults; and

(3) The juvenile is released as soon as he or she is sober, unless further detention under § 411(b) is warranted.

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§ 413. Preliminary Hearing. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) If a juvenile has been released to his/her parent(s), guardian, or custodian, the Court shall conduct a preliminary hearing within 10 days of the filing of the petition for the sole purpose to determine whether probable cause exists to believe that the juvenile committed the alleged delinquent act(s).

(b) If a juvenile is placed in custody, detention or shelter care, the Court shall conduct a preliminary hearing within 72 hours of the placement for the purpose of determining:

(1) Whether probable cause exists to believe that the juvenile committed the alleged delinquent act; and

(2) Whether continued detention or shelter care is necessary pending further proceedings.

(c) If the juvenile's parent(s), guardian, or custodian is not present at the preliminary hearing, the Court shall make an inquiry into what efforts have been made to notify and to obtain the presence of the parent(s), guardian, or custodian. If it appears that further efforts are likely to produce the appearance of the juvenile's parent(s), guardian, or custodian, the Court shall recess for not more than 24 hours and direct the tribal prosecutor to make continued efforts to obtain the presence of the juvenile's parent(s), guardian, or custodian. If it does not appear that further efforts are likely to produce the parent(s), guardian, or custodian, or if it appears that the parent(s), guardian, or custodian is/are unable or unwilling to provide effective support or guidance to the juvenile during the pendency of the juvenile offender proceedings, the Court shall appoint legal counsel to serve until adjudication and disposition of the petition.

(d) The Court shall hear testimony concerning:

(1) The circumstances that gave rise to the petition and/or the taking of the juvenile into custody; and

(2) The need for detention or shelter care.

(e) If the Court finds that probable cause exists to believe that the juvenile committed the delinquent act, the juvenile shall be ordered to appear at a trial on a date and at a time set by the Court. The juvenile shall be released to his/her parent(s), guardian, or custodian unless the alleged act is serious enough to warrant detention or shelter care and:

(1) There is reasonable cause to believe that the juvenile will run away and/or be unavailable for further proceedings; or

(2) There is a reasonable cause to believe that the juvenile will commit a serious act causing damage to person(s) or property.

(f) If a juvenile is released to his parent(s), guardian, or custodian, the Court may impose conditions on the release which may include but are not limited to: the posting of a bond; electronic monitoring; house arrest; travel restrictions; mandatory attendance at school; no contact with named individuals; banishment from Tribal programs or Tribal property.

(g) The Court may release a juvenile to a relative or other responsible adult Tribal member, if the parent(s), guardian, or custodian consents to the release. If the juvenile is 14 years of age or older, the juvenile and the juvenile's parent(s), guardian, or custodian must consent to the release.

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(h) If the Court finds that probable cause exists to believe that the juvenile committed the alleged delinquent act and there is a need for detention or shelter care, the juvenile's detention or shelter care shall be continued. The Court shall consider recommendations prepared by the Tribe's juvenile justice officer or the Tribe's juvenile probation officer.

(i) If the Court does not find probable cause to believe that the juvenile committed the alleged delinquent act, the petition shall be dismissed and the juvenile released.

§ 414. Transfer to the Adult Division of Tribal Court. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) If the juvenile is 17 years of age at the time of the alleged delinquent act, the prosecutor shall have the option of filing the action as a juvenile offender proceeding or as an adult criminal matter. If the juvenile is between the ages of 14 and 16 and is alleged to have committed an act that would have been considered a crime if committed by an adult, the prosecutor may file a petition requesting the Court to transfer the juvenile to the Adult Division of the Court.

(b) The Court shall conduct a hearing to determine whether jurisdiction of the juvenile should be transferred to the Adult Division of the Court.

(1) The transfer hearing shall not be held more than 10 days after the petition is filed.

(2) Written notice of the transfer hearing shall be given to the juvenile and the juvenile's parent(s), guardian, or custodian and legal representative or counsel at least 72 hours prior to the hearing.

(c) Prior to the hearing, the Tribe's juvenile probation officer shall be responsible for an investigation and the preparation of a written report to be submitted to the Court.

(d) The following factors shall be considered in determining whether to transfer jurisdiction of the juvenile to the Adult Division of the Court:

(1) The nature and seriousness of the offense allegedly committed by the juvenile; and

(2) The juvenile's age, mental and physical condition, past record of offenses, and responses to previous Court efforts at rehabilitation.

(e) The Court may transfer jurisdiction of the juvenile to the Adult Division of the Court if the Court finds clear and convincing evidence that both of the following circumstances exist:

(1) There are no reasonable prospects for rehabilitating the juvenile through resources available to the Court; and

(2) The alleged offense is serious and constitutes a substantial danger to the public.

(f) When a juvenile is transferred to the Adult Division of the Court, the Court shall issue a written transfer order containing reasons for the order. The transfer order constitutes a final order for purposes of appeal.

§ 415. Diversion. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) The Tribal prosecutor, with the concurrence of the Tribe's juvenile probation officer, and the Peacemaker coordinator, may choose to divert the juvenile rather, than initiate a juvenile offender

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proceeding.

(b) The Tribal prosecutor, the Tribal juvenile probation officer, and the Peacemaker coordinator may hold an informal conference with the juvenile and the juvenile's parent(s), guardian or custodian to discuss alternatives to the filing of a petition if:

(1) The admitted facts bring the case within the jurisdiction of the Court;

(2) A diversion of the matter would be in the best interests of the juvenile and the Tribe; and

(3) The juvenile's parent(s), guardian or custodian voluntarily consent to the diversion conference after they have received an explanation of their rights.

(c) This Section does not authorize the Tribal prosecutor to compel involuntary action of the parties involved.

(d) The Tribal prosecutor, with the concurrence of the juvenile probation officer and the Peacemaker coordinator, shall set forth in writing the conference findings and the disposition agreed to by the parties.

(e) Any disposition arranged through the diversion procedure of this Section shall be concluded within six months unless an extension is agreed to by all parties.

(f) The Tribe's juvenile probation officer shall monitor the progress of the juvenile. If at any time after 30 days the juvenile probation officer concludes that positive results are not being achieved, the juvenile probation officer shall recommend that the presenting officer file a petition pursuant to § 408(b) of this Code.

(g) No statement made during the diversion process may later be admitted into evidence at a trial or any other proceeding against the juvenile under this Code.

(h) Upon successful completion of the diversion, the Tribe's juvenile probation officer will notify the Tribal prosecutor and no further action will be required.

§ 416. Trial. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

The Court shall conduct a bench trial for the sole purpose of determining the guilt or innocence of a juvenile. Such trial shall be closed to the public.

(a) If the juvenile admits the allegations of the petition, the Court shall proceed to the disposition hearing only if the Court finds:

(1) The juvenile fully understands his/her rights as set forth in § 407 of this Code and fully understands the potential consequences of his/her admission(s);

(2) The juvenile voluntarily, knowingly, and intelligently admits to all facts necessary to constitute a basis for Court jurisdiction; and

(3) The juvenile has not, in his/her admission to the allegations, set forth facts which, if found to be true, constitute a defense to the allegations.

(b) The Court shall hear testimony concerning the circumstances which give rise to the petition.

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(c) If the allegations of the petition are sustained by proof beyond a reasonable doubt, the Court shall find that the juvenile is a juvenile offender and schedule a disposition hearing.

(d) A finding that the juvenile is a juvenile offender shall constitute a final order for purposes of appeal.

§ 417. Trial Continuances. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

Continuances of a trial may be granted upon:

(a) Motion of the juvenile for good cause shown;

(b) Motion of the Tribal prosecutor that material evidence or witnesses are unavailable, a finding by the Court that the Tribal prosecutor has exercised due diligence to obtain the evidence or appearance of witnesses, and reasonable grounds exist to believe that the evidence will become available or that the witnesses will appear; or

(c) Order of the Court during a period of diversion under § 415 of this code.

§ 418. Predisposition Report. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) The juvenile probation officer shall prepare a written report describing all reasonable and appropriate alternative dispositions. The report shall contain a specific plan for the care of, and assistance to the juvenile, designed to resolve the problems presented in the petition.

(b) The report shall contain a detailed explanation of the necessity for the proposed disposition plan and its benefits to the juvenile.

(c) Preference shall be given to the disposition alternatives which are listed in § 420. The alternative least restrictive of the juvenile's freedom, consistent with the interests of the Tribe, shall be selected.

(d) If the report recommends placement of the juvenile somewhere other than with the juvenile's parent(s), guardian, or custodian, it shall state the specific reasons underlying its placement recommendation.

(e) The juvenile probation officer shall present the predisposition report to the Court, the juvenile's representative, and the Tribal prosecutor at least three days before the disposition hearing.

§ 419. Disposition Hearing. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion, enacted December 20, 2017.]

(a) A disposition hearing shall take place not more than 21 days after the trial or after the admission of responsibility at the preliminary hearing.

(b) The Court shall take testimony and receive evidence concerning proper disposition at the hearing.

(c) The Court shall consider the predisposition report submitted by the Tribe's juvenile probation officer. Prior to the hearing, the affected parties shall be given an opportunity to review all reports and supporting documentation. During the hearing, the parties shall have the opportunity to controvert the factual contents and the conclusions of any reports. The Court shall also consider the alternative

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predisposition report prepared by the juvenile or the juvenile's legal representative.

(d) The disposition order constitutes a final order for purposes of appeal.

§ 420. Disposition Alternatives. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

If a juvenile has been found to be a juvenile offender, the Court may make the following disposition for any term until the juvenile reaches the age of 19:

(a) Place the juvenile on probation subject to conditions set by the Court;

(b) Place the juvenile in a detention and/or a treatment facility with an agency designated by the Court;

(c) Order the juvenile to perform community service work at the direction of the juvenile probation officer;

(d) Order the juvenile to pay restitution, including costs related to detention, or to provide restorative services to the injured party or parties. The Court may access the minor's per capita trust to provide restitution upon the motion of the Tribal prosecutor or an aggrieved party based upon proper proofs offered at an evidentiary hearing;

(e) Order any other measure the Court deems necessary and proper to correct the behavior of the juvenile offender and to insure the safety of the community.

§ 421. Modification of Disposition Order. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999.]

(a) A disposition order of the Court may be modified, for good cause, upon a showing of a change of circumstances. The Court may modify a disposition order at any time, upon motion of the following:

(1) The juvenile;

(2) The juvenile's parent(s), guardian, or custodian;

(3) The Tribal prosecutor; or

(4) The Tribal juvenile probation officer.

(b) If the modification involves a change of custody, the Court shall conduct a hearing to review its disposition order as follows:

(1) The Court shall review the performance of the juvenile, the juvenile's parent(s), guardian, or custodian; and review the reports of the prosecutor and other persons providing assistance to the juvenile and the juvenile's family;

(2) If the request for review of disposition is based upon an alleged violation of a court order, the Court shall not modify its disposition order unless it finds clear and convincing evidence of the violation.

§ 422. Parental responsibility. [History: Juvenile Code, adopted by Tribal Council in Special Session on January 13, 1999; as amended by Tribal Council October 1, 1999; and by Tribal Council motion,

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enacted December 20, 2017.]

An Indian Tribe, a department of an Indian Tribe, a municipal corporation, county, township, village, school district, a state, a department of a state, person, partnership, corporation, association, or an incorporated or an unincorporated religious organization may recover damages in an amount not to exceed $15,000 in a civil action in Tribal Court against the parents or parent of an unemancipated minor, living with his or her parents or parent, who has maliciously or willfully destroyed real, personal, or mixed property which belongs to an Indian Tribe, a department of an Indian Tribe, a municipal corporation, county, township, village, school district, a state, a department of a state, person, partnership, corporation, association, or religious organization, incorporated or unincorporated, or who has maliciously or willfully caused bodily harm or injury to a person, property, or an animal.

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CHAPTER 5
GTB Family Code

§ 501. Definitions. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999; and by Tribal Council in Special Session on May 25, 2022.]

(a) "Alimony" is monetary support which one spouse pays the other spouse for maintenance while they are separated or after they are divorced.

(b) "Annulment" means the legal separation of two persons because it is established that a marital status never existed.

(c) "Divorce" means the legal separation of two persons, totally dissolving the marriage relation, effected by the judgment or decree of the court.

(d) "Emancipation" means termination of the rights of the parents to the custody, control, services and earnings of a minor.

(e) "Marriage" means the legal union of two persons to the exclusion of all others for life or until divorced.

(f) "Minor" means a person under the age of 18 years.

(g) "Parents" means natural parents, if married prior or subsequent to the minor's birth; adopting parents, if the minor has been legally adopted; the mother, if the minor is illegitimate; the child's reputed blood parent who has expressly acknowledged paternity and makes a meaningful contribution to support the child; or a guardian by judicial decree.

(h) A "Traditional Indian Marriage" means a marriage performed by an Indian person who claims the authority to solemnize and formalize marriages between Indian persons in accordance with commonly accepted Indian customs and traditions of any recognized Indian Tribe by accepted Indian customs and traditions of any recognized Indian Tribe by virtue of such person's status as a medicine man or Indian spiritual leader.

§ 502. Service of Process; Hearings. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) Service of all process required by this chapter shall be governed by § _____ through § _____ of the GTB Civil Code. A "return" shall be filed with the court in compliance with § _____ of the GTB Civil Code.

(b) When service of papers cannot reasonably be made, a party cannot be found, or for any other good cause, the court, on ex-parte application, may direct the manner and on whom service may be made.

(c) Once a "return" has been filed with the court evidencing proper service, all further pleadings and notices involving the action may be served by first class mail to the address of the person stated on the pleadings or, if none, to the last known address of the affected person.

(d) All hearings required by this code shall be held before a Tribal Court Judge sitting without a jury.

§ 503. Marriage; Statement of Purpose. [History: GTB Family Code, adopted by Tribal Council on

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March 25, 1998; and as amended by Tribal Council October 19, 1999.]

The Grand Traverse Band of Ottawa and Chippewa Indians is committed to the promotion of legal marriages that are deemed to create stable family relationships and promote a positive moral climate on the Reservation.

§ 504. Qualifications to Perform Marriages. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; amended by Tribal Council on October 19, 1999; amended by Tribal Act #02-20.1137, enacted by Tribal Council in Special Session on July 31, 2002; and amended by Tribal Act #07-25.1838, enacted by Tribal Council on August 15, 2007.]

(a) It is the express policy of the Grand Traverse Band of Ottawa and Chippewa Indians to recognize traditional marriages provided that the person who has been designated to solemnize or formalize the marriage is a member of the Grand Traverse Band recognized as a medicine man or traditional spiritual leader by a significant number of Indian persons and provided further, that such person shall be recognized by resolution of the Grand Traverse Band Tribal Council as being a medicine man or traditional spiritual Indian leader. Other persons recognized as a medicine man, traditional spiritual leader or other such equivalent designation by another governing body of a federally recognized tribe or by order of another tribal court of a federally recognized tribe, shall be recognized as such by the Tribal Council. The Tribal Council may maintain a registry of those qualified to perform marriages.

(b) The following persons shall be qualified to perform marriages under this Code:

(1) Any person having the authority to perform marriages under Michigan law;

(2) A medicine man or traditional spiritual leader as defined in Subsection (a) above;

(3) A Tribal Judge of the Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court; and

(4) A Tribal Judge of a Court of another federally recognized Tribe who is authorized by Tribal law to perform marriages; and

(5) The Tribal Chairperson of the Grand Traverse Band of Ottawa and Chippewa Indians or other Tribal Chairpersons of federally recognized tribes.

(c) All persons qualified to perform marriages pursuant to Subsections (a) and (b) of this section must obtain a license to perform marriages from the Tribal Council. A license shall only be valid two years from the date of issuance by the Tribal Council. A license shall be renewable only by motion of the Tribal Council. The Tribal Council reserves the right to charge a fee for each license upon motion of the Tribal Council.

§ 505. Recognition of Marriages. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) The Grand Traverse Band of Ottawa and Chippewa Indians shall recognize as a valid and binding marriage any marriage between a man and a woman, formalized or solemnized in compliance with the laws of the jurisdiction in which such marriage was formalized or solemnized.

(b) Recognition may come about on the Court's own motion or upon the motion of any other person, and such order of recognition shall not be unreasonably withheld.

(c) An order denying recognition shall be appealable in the same fashion and manner as any other order of the Court.

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§ 506. Marriage Between Indian Persons; License Required; Qualifications; Location. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) Parties may not be married under this Code unless they obtain a valid marriage license issued by the Tribe or the State of Michigan.

(b) A Tribal Court Judge or Tribal Court Clerk shall have the power to issue a marriage license where at least one of the parties is a Native American man or woman, whether or not they are enrolled Tribal members.

(c) Marriage licenses shall be issued within three days of application following:

(1) Completion of an application prescribed by the Tribal Court;

(2) Payment of a license fee set by the Tribal Court; and

(3) Verification that at least one party to the proposed marriage is a Native American.

(d) Marriage licenses shall be effective for 30 days from the date of issuance.

(e) All requirements that the State of Michigan imposes on individuals to entitle them to marry within its jurisdiction are hereby adopted. Those seeking to be married:

(1) Must be at least 18 years of age, or be at least 16 years of age with the consent of their custodial parent(s) or legal guardian(s);

(2) Must freely consent to the marriage;

(3) Must have the mental capacity to marry;

(4) Must not have an existing spouse;

(5) Must not be blood relatives to each other in any of the following degrees:

(A) Parent and child;

(B) Grandparent and grandchild;

(C) Brother and sister, or half-brother and half-sister;

(D) Aunt and nephew, or uncle and niece; or

(E) Cousins in the first degree; and

(6) Persons wishing to be married must each undergo a counseling session of AIDS and communicable diseases.

(f) A marriage performed pursuant to a tribal license by one authorized to solemnize a marriage as herein provided may be performed at any location within the exterior boundaries of the Grand Traverse Band Reservation.

§ 507. Maintenance of Permanent Records; Procedure for Recognition of Marriage After Solemnization. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

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(a) All applications for marriage and copies of all marriage licenses issued shall be filed with the Tribal Court and maintained as permanent records of the Grand Traverse Band. Copies shall also be provided to the Clerk of Leelanau County.

(b) Following the marriage ceremony, two fully executed and conformed copies of the marriage license, executed by two witnesses and the person who conducted the ceremony, shall be returned to the Tribal Court Clerk within 14 days.

(1) The Clerk of the Court must endorse upon each copy its date of receipt and deliver it to the Judge who authorized the issuance of the license.

(2) Upon delivery the Judge must examine the application for a marriage license, the license, and the certificate of the person performing the marriage to ensure that the information appearing is properly completed and that the marriage was performed in accordance with the provisions of the license.

(3) Upon a determination that the application, the license, and the certification are in proper form, and that there has been compliance with the terms of the license, the Court shall endorse its approval upon the license and shall cause a Certificate of Marriage to be issued.

(c) A copy of the Certificate of Marriage shall be maintained in the same file as the related application for marriage license and marriage license.

§ 508. Marriage Certificate; Recording or Filing of the Same. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) The Tribal Court shall file the Certificate of Marriage with the Leelanau County Clerk for statistical purposes.

(b) Should the parties to any marriage performed under the auspices of these provisions desire that a Marriage Certificate be filed or recorded in another jurisdiction, they may obtain certified copies from the Clerk of the Tribal Court at the normal and customary charge.

§ 509. Divorce, Separate Maintenance; Annulment and Jurisdiction. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; amended by Tribal Council on October 19, 1999; and amended by Tribal Act #07-25.1832, enacted by Tribal Council on August 15, 2007.]

The Tribal Court shall have jurisdiction over annulment, divorce, separate maintenance, child custody, child support, division of property, or alimony issue where at least one party has been a bona fide resident of the Grand Traverse Band Reservation for a period of at least 180 days prior to the filing of the action.

When matters relevant to this section of the Children's Code arise wherein concurrent jurisdiction exists between the Tribal Court and the Michigan State Court, and the petitioner attempts to file the initial proceedings with Tribal Court, the Tribal Court shall be required to inform the petitioner of the option to pursue such matter in Michigan State Court.

§ 510. Annulment. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) Within one year of the date of marriage, following payment of a filing fee prescribed by the Court, one or both parties may submit a petition for annulment to the Court, stating as grounds that:

(1) One or both parties to the marriage were under 16 years of age at the time of the marriage;

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(2) One or both parties did not freely consent to the marriage;

(3) The parties were related to each other in a prohibited manner:

(A) Parent and child;

(B) Grandparent and grandchild;

(C) Brother and sister, or half-brother and half-sister;

(D) Aunt and nephew, or uncle and niece;

(E) Cousins in the first degree;

(F) One or both parties had an existing spouse at the time of the marriage; or

(G) One or both parties lacked the requisite capacity to marry.

(b) Petitions for annulment must be sworn before a notary public or other official designated to verify signatures, and must contain a proposed division of marital property and debt, and custody of children, if any.

(c) If the non-petitioning spouse doesn't agree with the petition's allegations as to grounds for annulment, division of property, or custody of children, the non-petitioning spouse must file a response with the Tribal Court within 30 days of receipt of the petition.

(d) Such response must be sworn before a notary public or other official designated to verify signatures, and must contain an explanation of why there are no grounds for annulment, or why the proposed division of property or grant of custody contained in the petition is not appropriate.

(e) A copy of the response must be served on the petitioning spouse.

(f) Where such a response is received, the Tribal Court must hold a hearing to resolve the dispute.

(g) Failure to respond shall constitute an admission to the allegations contained in the complaint, and shall lead to a default judgment against the defendant.

(h) If no response is received within 30 days, or, if the Tribal Court determines that there are valid grounds for annulment, then the Court shall enter a decree of annulment which provides for a division of property in an equitable manner and determine custody based on the best interests of the child(ren).

§ 511. Divorce; Grounds; Commencement of Action. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) Filing for divorce:

(1) One or both parties may file a signed complaint with the Tribal Court.

(2) Such complaint shall state the grounds for divorce.

(b) Divorces shall be granted without regard to the fault of the parties. The Tribal Court shall grant a divorce upon finding that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed, and that there remains no reasonable likelihood that the marriage can be preserved; or

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(c) Commencement of action:

(1) An action for divorce shall be commenced by the filing of a complaint, the payment of the applicable fee, and the issuance of a summons.

(2) The complaint shall contain the following information, set forth in separately numbered paragraphs:

(A) The full legal name, address, social security number, and driver's license number of each party to the marriage;

(B) The Tribal affiliation/membership of each party to the marriage;

(C) The names, ages, and birth dates of any children born of the marriage between the parties, or of any children born prior to the marriage when the husband is asserted to be the father of the child(ren);

(D) The Tribal affiliation/membership of each child;

(E) A statement as to whether or not the wife is pregnant at the time the complaint if filed;

(F) The maiden name of the wife and/or her name prior to the marriage if different;

(G) The date and location of the marriage;

(H) The date and location of the separation of the parties;

(I) A statement of the assets and liabilities of the parties that need to be allocated between them;

(J) A statement as to any pending court proceedings in other jurisdictions that could affect the minor child(ren);

(K) A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved;

(L) A statement that the Plaintiff desires the Court to enter a judgment of divorce; and

(M) A statement of the specific relief requested as to child custody, child support, visitation, alimony, proposed property settlement or other such relief.

(d) Answer to complaint:

(1) The defendant spouse shall file an answer to the complaint within 21 days of receipt of the complaint if personally served or 28 days if served by mail.

(2) Such answer may seek a division of property, child custody arrangement, or other relief different than that proposed by the petitioner.

(3) A copy of the answer must be served on the plaintiff spouse.

(e) Hearing:

(1) Following a complaint for divorce, separate maintenance, or annulment, and after the opportunity for the defendant to answer, the Tribal Court shall hold a hearing.

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(2) Final divorce hearings may be held no less than within six months after the filing of the complaint in actions involving the custody/welfare of minor children. Final divorce hearings may be held no less than two months after the filing of the complaint in actions not involving the custody/welfare of minor children.

(3) Where the custody of minor children is at issue, the Tribal Court may order that a home study be completed by a person appointed by the Court prior to the hearing, to aid the Court in determining the issue.

(4) In determining who will have custody of the minor child(ren), the best interest(s) of the child(ren) shall control. Visitation shall be ordered to promote a positive parent-child relationship, whenever possible.

(5) At the hearing, both spouses shall have an opportunity to testify, call witnesses, present evidence, and cross-examine their spouse and any other witnesses.

(6) Once a final ruling has been made, parties seeking to alter the Court's decision must demonstrate that there has been a significant change in circumstances before the Court shall consider amending it's prior ruling.

(7) The intentional filing of groundless petitions shall result in the imposition of sanctions.

(8) A final order of the Tribal Court shall be appealable in the same fashion and manner as any other order of the Court.

§ 512. Division of Property. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

When an annulment or divorce is granted, the Court shall order distribution of all real and personal property in an equitable fashion giving consideration to party fault, and shall allocate the marital financial obligations of the parties, in whole to either party, or partially to each party.

§ 513. Alimony. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) When an annulment or divorce is granted, the Court may order either party to make periodic alimony payments as necessary to provide for the support of the other party.

(b) Such orders may be modified, on motion of either party, to reflect changes in either party's economic circumstances.

(c) Groundless filings may result in the imposition of sanctions.

(d) The Court, upon motion, shall terminate alimony to any spouse who has remarried or upon the death of either party.

§ 514. Child Custody, Visitation, and Support. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) In any action concerning annulment, divorce, or paternity, the Tribal Court shall have the authority to determine the custody of any children under 18 years of age.

(1) The Court may grant custody to one parent, or may grant joint custody. The Court shall specify

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the period(s) when each parent shall have custody, and shall determine the visitation rights (if any) of the non-custodial parent.

(2) Visitation shall be designed to foster and expand the relationship between the non-custodial parent and the child(ren), whenever possible.

(b) Child custody shall be based on the best interest of the child(ren) following a custody and home study evaluation and recommendation completed by a person appointed by the Court. There shall be no presumption that one parent is better suited to be a custodial parent because of gender.

(c) The Tribal Court shall have the authority to require the non-custodial parent to pay such sum as the Court may determine appropriate and proper for the support and maintenance of the child(ren).

(d) The Tribal Court, upon petition of either party, or any third party to whom custody or visitation of the minor child may be awarded, may revise, amend, or alter any order concerning the care, custody, support, or visitation rights with any minor child(ren) consistent with their best interests.

(e) In determining the best interests of the child(ren), the Court shall consider the following:

(1) The love, affection, and other emotional ties existing between the parties involved and the child.

(2) The capacity and disposition of the parties involved to give the child love, affection, and guidance and continue the education and raising of the child in his or her religion or creed, if any.

(3) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this Tribe in place of medical care, and other material needs.

(4) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(5) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(6) The moral fitness of the parties involved.

(7) The mental and physical health of the parties involved.

(8) The home, school, and community record of the child.

(9) The reasonable preference of the child, if the Court considers the child to be of sufficient age to express preference.

(10) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent of the child and the parents.

(11) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(12) Any other factor considered by the Court to be relevant to a particular child custody dispute.

§ 515. Child Custody Actions Outside of Divorce and Annulment Proceedings. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

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(a) The Tribal Court shall have authority to determine the custody and visitation of children as between parents and legal guardians, or as between parents and legal guardians and anyone who has actual physical custody of the child(ren). The authority shall exist whether or not there is a divorce or annulment proceeding pending.

(b) Such proceeding shall commence upon the filing of a petition by the parent or legal guardian.

(c) In ruling on a custody petition, the Court shall employ the standards set forth in § 514 of this Code, and may order periodic support payments as set forth in that section.

(d) After the Court rules on the petition, neither party may file another petition for six months, unless there has been a substantial change in circumstances, or where abuse, neglect or abandonment of the child is suspected.

§ 516. Enforcement of Child Support Orders. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; amended by Tribal Council on October 19, 1999; and amended by Tribal Act #07-25.1832, enacted by Tribal Council on August 15, 2007.]

(a) When the Court has ordered periodic support payments under this Code, and the parent does not pay as ordered, the Court shall use the same methods to collect these payments as it would to enforce any money judgment in a civil action, including contempt.

(b) If the parent willfully refuses to make support payments as ordered by the Court, and the procedures set forth in Subsection (a) do not result in payment, the Tribe may initiate criminal proceedings.

(c) A custodial parent who has a valid Tribal Court order for child support and is unable to collect due to non-payment by the other parent shall be informed by Tribal Court of the option to file the support order with Michigan Friend of the Court for purposes of collection and enforcement, consistent with MCR 2.615, Enforcement of Tribal Judgments.

§ 517. Temporary Interim Orders. [History: GTB Family Code, adopted by Tribal Council on March 25, 1998; and as amended by Tribal Council October 19, 1999.]

(a) The Court may issue temporary orders during the pendency of all proceedings involving child custody, child support, visitation, alimony, and the possession of real and personal property.

(b) Such orders may be granted upon the motion of either party, or on the Court's own motion. A hearing shall be held prior to the issuance of such orders, unless the Court determines that an emergency exists, or a party cannot be found, in which case such orders may be issued ex-parte.

(c) Emergency may be interpreted to include, but not be limited to:

(1) A danger of physical abuse to the spouse or the party's child(ren);

(2) Severe emotional abuse;

(3) A lack of means for interim subsistence; or

(4) The danger that the child(ren) will be removed from the jurisdiction.

(d) If the initial order is issued ex-parte, a full hearing on the temporary order shall be held within 14 days.

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CHAPTER 6
Tribal Paternity and Putative Parents

§ 601. Short Title. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

This chapter may be referred to as the "Tribal Paternity and Putative Parent Act."

§ 602. Purpose. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

The purpose of this act is to determine the natural father of a child. Such a determination may be sought for any reason by parties eligible under this Act [see §§ 606 - 607], including, but not limited to: financial support and tribal membership eligibility. It is the intent of the Tribal Council that this Act also serve to assist the Tribal Court in determining any rights that a putative parent may have.

§ 603. Definitions. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) "Blood or tissue test" means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person's blood or tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American Association of Blood Banks. A blood test may include, but is not limited to, determinations of red cell antigens, red cell isoenzymes, serum proteins, the human leukocyte antigen test, and/or DNA probe technology.

(b) "Child" means a person under the age of 18 years old.

(c) "Court," unless otherwise specified, means the Tribal Court of the Grand Traverse Band of Ottawa and Chippewa Indians.

(d) "Filiation" means the relation of a child to his or her father.

(e) "Guardian ad litem" means the Court-appointed legal representative for a child. A guardian ad litem is only responsible for the child's interests in a Court action under this Act.

(f) "Informal hearing" means the informal pre-trial proceeding outlined in § 612 of this Act.

(g) "Judgment or order" or "support order" means an order of the Court given under § 617 of this Act.

(h) "Natural father" means the biological father of a child, except as otherwise provided in § 605 of this Act.

(i) "Natural mother" means the biological mother of a child.

(j) "Paternity" means a determination that a man is the natural father of a child.

(k) "Putative parent" means a person who is alleged or reputed to be the parent of a child.

(l) "Tribal enrollment number" means the enrollment identification number of an individual in an Indian tribe recognized by either the federal government or the Grand Traverse Band of Ottawa and Chippewa Indians.

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§ 604. Presumption of Paternity. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) A person is presumed to be the natural father of a child under any of the following circumstances:

(1) The person and the child's natural mother are, or were, married to each other and the child was born either during the marriage or within 10 months after the marriage was terminated for any reason;

(2) Prior to the child's birth, the person and the child's natural mother married, or attempted to marry, each other in a legally-recognized marriage - regardless of whether or not that marriage was actually valid;

(3) The child's natural mother and the child's alleged father acknowledged the paternity of the alleged father in a notarized or Court-recognized writing;

(4) With the alleged father's consent, he is named as the child's father on the child's birth certificate;

(5) The alleged father is or has been obligated to support the child under either a voluntary written agreement or a Court Order;

(6) Scientific evidence from a blood or tissue test shows a 95% or higher statistical probability of paternity; or

(7) The alleged father is considered the natural father of the child according to the laws of the Indian reservation, state, or country in which the child was born.

(8) The child's natural mother and the child's alleged father acknowledge the alleged father's paternity in a voluntary paternity acknowledgment form issued by a state or tribal government. The Tribal Court shall make available, accept, and file any completed forms submitted to it. As part of this voluntary acknowledgment process, the Tribal Court shall make information available to the parents on rights and responsibilities associated with paternity. If another person is presumed under this section to be the child's natural father, this voluntary acknowledgment shall only be effective with the written consent of the presumed father, or after that, presumption has been rebutted. A presumption of paternity is created when the acknowledgment is filed with the department.

(b) Any acknowledgment of paternity recognized under this Act is binding upon the parties executing it, regardless of whether or not a party is a minor.

(c) Rebuttals of presumption. Except for presumptions of paternity that are conclusive in the opinion of the Court, or irrebuttable under § 604(d), a presumption under this section may be rebutted by:

(1) A preponderance of evidence in a Court action (or administrative action, if available); or

(2) Scientific evidence resulting from a blood or tissue test that determines the alleged father is not the child's natural father.

(d) A voluntary acknowledgment of paternity, as provided in either § 604(a)(3) or 604(a)(8) of this Act, is, as a matter of tribal law, an irrebuttable presumption of paternity for the purposes of this Act, provided that:

(1) The acknowledgment has not been rescinded under any procedures established by the Court; and

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(2) No Court has, by order or judgment, recognized any other person as the child's natural father.

(e) An irrebuttable presumption of paternity under this section has the same force and effect as a Tribal or other Court judgment determining paternity and may only be set aside under a showing of fraud, duress, or material mistake of fact.

(1) The burden of proof is on the person seeking to set the presumption aside.

(2) Except for good cause, legal responsibilities arising from the paternity acknowledgment may not be stayed pending the outcome of an action to set aside the presumption.

§ 605. Artificial Insemination. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) If a woman is inseminated artificially with semen donated by a person who is not her husband, her husband is treated by law as if he were the natural father of the child conceived by artificial insemination as long as he:

(1) Knew of the artificial insemination at the time it took place; and

(2) Did not file for divorce or otherwise separate from his wife prior to the birth of the child.

(b) The law treats the donor of semen used in an artificial insemination as if he were not the natural father of a child conceived by artificial insemination, unless there is clear and convincing evidence of an agreement providing otherwise between the donor and the artificially inseminated woman.

§ 606. Who May Bring Action on Behalf of a Minor. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) An action may be brought under this Act by:

(1) A child, or his/her legal representative, legal guardian, or custodian, who wishes to establish the paternity of his or her father;

(2) A mother of a child, on behalf of her child;

(3) A person alleging, or alleged, to be a child's father;

(4) The personal representative, or parent, of an alleged father if the alleged father has died or is a minor; or

(5) The Grand Traverse Band of Ottawa and Chippewa Indians, through one of its departments or agencies, in cases where the child has no parent, legal guardian or custodian.

(b) Judicial determination, or an irrebuttable presumption, of paternity of a father to a child also applies to any full-blood siblings of that child unless another provision of law provides otherwise. Siblings do not need to be a party to a paternity suit in order for the determination of paternity to be applicable to them.

(c) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this Act. This provision does not apply to a Court-approved agreement such as provided for in § 617 of this Act.

(d) Upon rebuttal of a presumption of paternity, paternity of a child by another man may be determined

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in the same action if the other man has been made a party to the action.

§ 607. Who May Bring Action in Cases Involving Adults. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) In paternity or putative parent cases involving adults who are seeking a paternity declaration for themselves and where the primary object of having filiation or paternity determined is to establish or prove Tribal descendancy and/or Indian blood quantum for Tribal membership purposes, only the following parties may commence an action under this Act:

(1) An adult 18 years of age or older who is trying to enroll with a federally-recognized Indian tribe (or any tribe that is recognized by the Grand Traverse Band); or

(2) Any of an adult's descendants who is 18 years of age or older and who is trying to enroll with a federally recognized Indian tribe (or any tribe that is recognized by the Grand Traverse Band). In an action by a descendant, the Court is limited to a finding of whether or not the plaintiff is a biological descendant of a Tribal member; no filiation or paternity finding regarding persons not parties to the action may be declared.

(A) It is the intent of the Tribal Council that this subsection be used simply to allow an individual to request a Court finding that paternity or filiation existed between that individual's parent and a Tribal member.

(B) Such Court finding of paternity or filiation between a plaintiff's parent and a tribal member shall not be the basis for any legal action other than Tribal enrollment eligibility.

(b) In paternity or putative parent cases where an adult is seeking to establish paternity or filiation for him or herself for tribal membership purposes, the Court shall not issue any support judgments or orders, nor order any past expenses to be paid, unless unique circumstances dictate such arrangements. Absent unique circumstances, cases involving adults shall be limited only to determinations of paternity or filiation, which the plaintiff adult may then use for enrollment purposes.

§ 608. When Action May Be Brought. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) An action under this Act may be commenced at any time by a party listed under § 606(a) or § 607(a). However, if the child has not been born by the time a trial has been scheduled, the case shall be continued until after he or she has been delivered, unless both the mother and the alleged or putative father agree otherwise.

(b) This section does not extend the time in which a person may claim a right of inheritance or a right to succession under any applicable laws governing distribution, closing of a decedent's estate, or determination of heirship.

§ 609. Jurisdiction; Venue. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The Grand Traverse Band Tribal Court has exclusive jurisdiction of any action brought under this Act. Such an action may be joined with an action for dissolution, annulment, separate maintenance, support, or adoption.

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(b) Personal jurisdiction over an individual under this Act may be established in Tribal Court if:

(1) The child for whom paternity is seeking to be established is or may become, contingent upon paternity, an enrolled member of the Grand Traverse Band of Ottawa and Chippewa Indians;

(2) The child for whom paternity is seeking to be established is or may become, contingent upon paternity, a member of any other Indian tribe, band or community;

(3) The natural mother of the child is a member of any Indian tribe, band or community;

(4) The alleged father is a member of the Grand Traverse Band;

(5) The alleged father is a member of any tribe recognized by either the federal government or the Grand Traverse Band and he resides on Grand Traverse Band trust lands;

(6) The individual submits to the jurisdiction of the Tribal Court by consent, by entering a general appearance, or by filing a responsive document that has the effect of waiving any contest to personal jurisdiction; or

(7) There is any other basis for personal jurisdiction under the Grand Traverse Band Tribal Constitution or tribal statutes.

§ 610. Parties. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The child must be made a party to the action.

(b) A minor must be represented in Court by either the minor's general guardian, a legal representative, or a guardian ad litem appointed by the Court. The child's mother or father may represent the child as guardian or otherwise unless the Court determines, upon a showing of good cause, that such representation may not be in the best interests of the child.

(c) The following parties must be made parties to the action or, if not subject to the jurisdiction of the Tribal Court, must be given notice of the action according to Court guidelines and must be given an opportunity to be heard:

(1) The child's natural mother;

(2) Any person presumed to be the child's natural father under § 604 of this Act; and

(3) Any person alleged to be the child's natural father.

(d) Evidence offered by the alleged father concerning a person who is not subject to the jurisdiction of the Grand Traverse Band Court and who may have had sexual intercourse with the mother at or about the probable time of conception is admissible evidence only if the alleged father has undergone, and made available to the Court, blood or tissue tests the results of which do not exclude the possibility of the alleged father's paternity of the child. The burden of proof for evidence under this subsection shall be clear and convincing.

(e) A person who is identified and is subject to the jurisdiction of the Court must be made a defendant in the action.

(f) The Court may align the parties according to its discretion.

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§ 611. Actions Brought by Putative Father; Termination of Parental Rights. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) In cases where a putative father commences an action to establish his paternity or filiation regarding one or more children, the Court must determine both the issue of paternity or filiation as well as whether or not the parental rights of such putative father have been terminated.

(b) The provision of this Act shall apply to the Court in determining paternity or filiation of a putative father initiating an action.

(c) In the event that a Court determines paternity or filiation on the part of a putative father, the Court may still find that his parental rights to the child or children in question have been terminated according to the provisions of the following subsections.

(d) The Court may terminate the parental rights of any putative father who has not established a custodial relationship with the child and who has provided no support for the mother or child prior to the notice of hearing if the Court finds, after examining the father's fitness and ability to properly care for the child, "that it would not be in the best interests of the child to grant custody" to him.

(e) The Court may not terminate the parental rights of any putative father who has established some kind of custodial or support relationship prior to the notice of hearing, unless the Court finds by clear and convincing evidence, one or more of the following:

(1) Abandonment. The child has been abandoned under either of the following circumstances:

(A) A parent of a child is unidentifiable and has deserted the child for 28 or more days and has not sought custody of the child during that period. For purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent; or

(B) A parent of the child has abandoned the child without provision for his support or without communication for a period of at least six months. The failure to provide support or to communicate for a period of at least six months shall be presumptive evidence of the parent's intent to abandon the child.

(2) Physical Injury or Sexual Abuse. The child or a sibling of the child has suffered physical injury or physical or sexual abuse under either of the following circumstances:

(A) A parent's act caused the physical injury or physical or sexual abuse and the Court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home; or

(B) A parent who had the opportunity to prevent the physical injury or physical or sexual abuse, failed to do so and the Court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(3) Unrectified Conditions. The parent was a respondent in a proceeding brought under this Children's Code, 12 or more months have elapsed since the issuance of an initial disposition order, and the Court, by clear and convincing evidence, finds either of the following:

(A) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child; or

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(B) Other conditions exist that cause the child to be a child-in-need-of-care. The parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice, a hearing, and been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

(4) Failure to Provide Proper Care. The parent, without regards to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

(5) Conviction of Violent or Sexual Crime. A parent of the child is convicted of a violent or criminal sexual crime against the other parent or a sibling of the child.

(6) Conviction of a Felony. A parent of the child is convicted of a felony of a nature as to prove the unfitness of the parent to have future custody of the child.

(7) Imprisonment for More Than Two Years. The parent is imprisoned for over two years and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

(8) Parental Rights to Sibling Terminated. Parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

(f) An action brought under this section shall be brought within six years of the date of the birth of the child. Failure to bring an action within six years of birth shall constitute an irrefutable presumption of abandonment of parental rights.

§ 612. Blood or Tissue Tests. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The Court may, or upon request of a party shall, require the child, mother, or alleged father to submit to blood or tissue tests.

(1) The tests shall be performed by an expert qualified as an examiner of blood types and agreed upon by both parties.

(2) If the parties cannot agree upon an expert, the Court shall choose one for the parties.

(b) The Court, upon reasonable request by a party or under its own discretion, shall order that independent tests be performed by other experts qualified as examiners of blood or tissue types.

(c) If a party objects to the blood or tissue test results, such objection must be filed with the Court within 30 days after service of the blood or tissue results was made to both parties to the case.

(1) Upon a reasonable objection being filed, the Court shall order an additional blood or tissue test. The reasonability of any objection shall be left to the Court's discretion.

(2) Such additional test may be conducted by the same experts who administered the test being disputed, unless the objecting party requests that the additional test be conducted by different experts, provided that different experts are available to conduct the test on a timely basis. The definition of "timely" shall be determined by the Court, but shall not be interpreted to mean less

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than the time which had been required by the test being disputed.

(d) The costs of any additional testing resulting from objection to the original test shall be the responsibility of the objecting party or parties.

(1) If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

§ 613. Failure to Answer or Appear. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) Upon an action being commenced regarding paternity or a putative parent, the Court shall issue a summons to the defendant(s) in the action. No proceedings on the action may take place before 30 days after issuance of the summons, unless the defendant(s) agree to an earlier date.

(b) If the alleged father fails to answer or to appear at a scheduled hearing or for a scheduled blood test, and upon proof that the father was served with the summons, the Court shall send one additional summons which includes a notice to the father informing him that if he fails to answer or appear, he could be declared the legal father of the child in question.

(c) After service of the second summons, and only upon proof that the father was served with both summonses provided for in this section, the Court may enter an order declaring the alleged father to be the legal father of the child.

(1) Such an order declaring paternity, upon failure of the alleged father to appear, may only be made by the Court upon clear and convincing evidence.

(2) A Court Order declaring paternity after the failure of the alleged father to appear is not mandatory and the Court, upon good reason, can choose not to enter an order of paternity.

(d) The Court may not enter an order under this section if there is more than one alleged father unless the default applies to only one of them and all others have been excluded by the results of blood or tissue testing.

§ 614. Judgment or Order. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The judgment or order of the Court determining the existence or nonexistence of the parent-child relationship is determinative for all purposes.

(b) If the judgment or order of the Court conflicts with the child's birth certificate, the Court shall order a new birth certificate to be issued, which will take the place of the original.

(c) The judgment or order shall contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(1) The judgment or order must contain a provision concerning the duty of child support. Such provision may also contain relevant past expenses, such as childbirth, in the discretion of the Court.

(2) The Court shall structure support judgments or orders as periodic payments. However, if the

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best interests of the child or other good reason dictates otherwise, the Court may order lump sum support judgments or any other appropriate payment structure.

(3) The Court may limit the father's liability for past support of the child to any proportion or amount that the Court finds is just.

(d) To determine a support judgment or order, as well as its length of time, the Court shall take into consideration all relevant facts, which include the following:

(1) The child's age;

(2) The child's educational needs;

(3) The child's medical needs;

(4) Standard of living and circumstances of the parents;

(5) Earning ability of parents;

(6) Financial resources and earning capabilities of the child;

(7) Responsibility of parents for support of others, including elders, extended family, or any one else;

(8) Cost of day care for the child;

(9) Any custody arrangement decided upon by the parties or ordered by the Court; and

(10) Any relevant tribal or traditional customs.

(e) A support judgment or order issued under this section must comply with the provisions of both: the Michigan Child Support Formula Manual, as adopted by the Tribal Council and codified at 10 GTBC § 202; and the Uniform Reciprocal Enforcement of Support Act, codified at 10 GTBC Chapter 3 (§ 301 et seq.).

(f) The provisions and guidelines of this section shall be adhered to in all support judgments or orders handed down by the Court - including those orders which are entered upon default when a party fails to appear.

(g) If the Court determines that a support order calculated using the guidelines of this section is unjust or inappropriate, it shall state its reasons for its determination. Similarly, if the parties have agreed upon a support amount that varies from the amount which the guidelines would suggest, they must also state the reasons behind their amount.

(h) If the Court does not order a parent owing a duty of support to a child to pay anything for the child's support, it shall state its reasons for not ordering child support and provide the parties with a written copy of those reasons.

(i) Upon a Court finding of paternity, or establishment of a support judgment or order, such judgment or order must include a provision requiring the parties to file with the Court, and update as necessary, the following information:

(1) Identity of the party;

(2) Tribal identification number;

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(3) Residential and mailing addresses;

(4) Telephone number;

(5) Driver's license number; and

(6) Name, address and telephone number of the party's employer.

(j) Upon the failure of a party to supply or properly update the information required in subsection (i) above, the Court may order a fine of no more than $50.

§ 615. Modification of Judgment or Order. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The Court has continuing jurisdiction to modify or revoke a judgment or order:

(1) For future education and support;

(2) On the basis of any of the issues contained in § 616; or

(3) For any good reason identified by the Court.

§ 616. Liens on Tribal Per Capita Accounts. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) The Court may create a lien on a tribal member's per capita account in order to satisfy a child support debt under this Act, if such debt has existed for at least six months.

CROSS-REFERENCE: See also 18 GTBC § 1607 ("Child Support Obligations").

§ 617. Prior Agreements. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

An agreement, understanding, or other form of settlement concerning child support or custody between the mother, child or anyone authorized on their behalf and the alleged or putative father shall not be legally binding unless a Court with jurisdiction over the parties has determined that such arrangements are sufficient for the child's support and are in the child's best interests.

§ 618. Confidentiality. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

Regardless of any other law or regulation concerning public hearings or records, any hearing, trial or other proceeding held under this Act shall take place in closed Court. All papers and records, other than the final judgment, are subject to inspection only upon consent of the Court and all parties - or in unique cases, upon the order of the Court upon a showing of good cause.

§ 619. Mother and Child Relationship; Declaration. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

(a) Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship.

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(b) The provisions of this Act shall also apply to such a maternity action.

§ 620. False Actions; Penalty. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

Any party who knowingly commences an action against a party who is not the father of the child or children in question, or any party who aids or abets such a false action, shall be guilty of a misdemeanor and subject to a corresponding punishment by the Court.

§ 621. Burden of Proof. [History: Tribal Paternity and Putative Parents, adopted by Tribal Council on October 19, 1999.]

The burden of proof for all proceedings under this Act, unless otherwise indicated, shall be that of a preponderance of evidence.

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CHAPTER 7
Elders Trust Fund; Returned or Undeliverable Checks Ordinance

§ 701. Returned or Undeliverable Checks. [History: Tribal Act #04-22.1468 enacted by Tribal Council on January 25, 2005.]

The Elders Trust Fund and procedures was established pursuant to 1.01 P.L. 105-143 (d)(1)-(7)(e)(1)(2) and GTB Resolution No. 02-20.1110. If an Elders Trust Fund check is returned and/or undeliverable, the following procedures shall apply:

(a) If an Elders Trust Fund check is returned within 12 months of the date the check was issued, the check will be canceled and the trust funds will be deposited into a "Returned Elders Trust Fund Account" where the funds will be maintained until the Tribe receives a request for disbursement by the Elder.

(b) If an Elders Trust Fund check is returned to the Tribe as undeliverable, the trust funds will be immediately deposited into a "Returned Elders Trust Fund Account" where the funds will be maintained until the Tribe receives a request for disbursement by the individual.

(c) If after a two-year period the Elder has not come forward to claim the returned or undeliverable Elders Trust Fund check, then the funds shall be credited to the corpus of the Elders Trust Fund Account, to be distributed in accord with the provisions of P.L. 105-143.

(d) If the Tribe receives independent confirmation, by way of a death certificate, for the Elder within the two year holding period in Subsection (c) herein, then the returned or undeliverable Elders Trust Fund check shall be immediately credited to the corpus of the Elders Trust Fund Account, to be distributed in accord with the provisions of P.L. 105-143.

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Title 11

HEALTH

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CHAPTER 1
Health Service Area; Tribal Health Board Establishment

§ 101. Health Care Delivery Service Area. [History: Tribal Act #81-010, enacted by Tribal Council on February 14, 1981.]

The Grand Traverse Band of Ottawa and Chippewa Indians hereby designates the five county area of Leelanau, Antrim, Benzie, Grand Traverse, and Manistee counties as the service area for the delivery of health care services for Tribal members.

Comment: The Constitution adopted after enactment of Tribal Act #81-010 recognizes the addition of Charlevoix County to the tribal service area (Article I, Section 2, GTB Constitution). For health care delivery purposes, the following section includes Charlevoix County.]

§ 102. Inclusion of Charlevoix County in Service Area. [History: Tribal Act #90-801, enacted by Tribal Council on January 12, 1990.]

(a) The Grand Traverse Band of Ottawa and Chippewa Indians determines that Tribal members residing within Charlevoix County must be served by IHS program(s) on an equal basis with other members residing within the six-county service area designated in the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians approved by the Secretary of the Interior under the authority of the IRA; therefore commencing with the next IHS fiscal year, GTB staff are directed to provide IHS services to GTB members residing in Charlevoix County.

(b) The Indian Health Service shall be informed that the Grand Traverse Band is obligated to provide IHS-program services to Tribal members in Charlevoix County both by the IRA-approved Constitution and the Indian Civil Rights Act, 25 U.S.C. § 1302.

(c) The Indian Health Service is requested to provide additional funding in future fiscal years to account for the fact that the addition of Charlevoix County increases the GTB's service-area population.

§ 103. Establishment of Tribal Health Board. [History: Tribal Act #82-075, enacted by Tribal Council on June 17, 1982.]

The Grand Traverse Band Tribal Council does hereby authorize the establishment of a Tribal Health Board. The authorizations under this Act remain in effect until rescinded or superseded.

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CHAPTER 2
Provision of Health Services

§ 201. Authorization for Provision of Health Services. [History: Tribal Act #89-781, enacted by Tribal Council on December 16, 1989.]

Legislative Background: The preamble to the following ordinance reads as follows: Whereas the Grand Traverse Band of Ottawa and Chippewa Indians is a federally-recognized Tribe so proclaimed May 27, 1980 that retains its inherent right to self-government; and whereas the Tribal governing body had determined that it wishes to exercise the contract option; and whereas the Grand Traverse Band desires to continue to provide health services through a contract with the Indian Health Services; and whereas the scope of the contract is to plan, conduct, and administer the financial assistance for Comprehensive Health Services to include Community Health Representatives, Health Management, and Substance Abuse Services; and whereas the Tribal Chairman or his designee is authorized to negotiate and execute the contract and any amendments thereto; and whereas the authorities granted herein shall be effective until such time as the Tribal Governing Body takes further action by Resolution.

The Grand Traverse Band of Ottawa and Chippewa Indians Health Services shall be authorized to continue to provide health services.

§ 202. Limitation on Catastrophic Care Responsibility. [History: Tribal Act #90-816, enacted by Tribal Council on February 17, 1990. Tribal Act #89-784 had been enacted by Tribal Council on December 16, 1989.]

The Grand Traverse Band of Ottawa and Chippewa Indians institutes the following policy effective April 1, 1990:

(a) That contract health service resources are insufficient to authorize payment for catastrophic services as defined by the Indian Health Service (I.H.S.) in excess of $20,000 per case. Vendors will be notified that funds are insufficient under the existing contract and that payment will not be authorized unless sufficient resources become available.

(b) Additional funds will be requested from IHS through the catastrophic health care fund on a case-by-case basis. Management of contract health care resources shall be in accordance with contract description specification, work statement C, paragraph 4, B(e)[1] and [2].

(c) Resolution [Tribal Act] #89-784 is rescinded.

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GRAND TRAVERSE BAND CODE

Title 12

INFRASTRUCTURE

Legislative Background: This Title was substantially amended by Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006. Said Act provided as follows:

. . . that the GTB Department of Public Works be established to regulate the operation and maintenance of all Tribally-owned water and wastewater system.

Pursuant to the authority vested in the Grand Traverse Band Tribal Council by the Tribal Constitution, the Grand Traverse Band Tribal Council hereby establishes a public utility known as the GTB Department of Public Works and enacts this ordinance which shall establish the authority of the organization.

Said Act also provided for the repeal of former Chapters 1 and 2 of Title 12, as amended July 26, 2000; for the adoption of Chapters 1 through 8 as set forth below; and for the redesignation of former Chapter 3, Building Code, and Chapter 4, Roads, as Chapters 9 and 10.

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CHAPTER 1
GTB Department of Public Works Ordinance

§ 101. Purpose. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The organization shall be organized and operated for the following purposes:

(1) To provide for sanitary community water supply and community wastewater treatment and disposal systems;

(2) To assume control of and responsibility for the operation, repair and maintenance of the water and sewer facilities and equipment so as to keep said facilities in good operating condition, in accordance with accepted standards and practices;

(3) To establish service charges sufficient to sustain the proper operation, maintenance and repair of the system, and to provide for depreciation, and contingencies; and

(4) To collect such service charges from individuals, businesses, concerns and establishments and any other entities served by the system.

(b) The purpose of this ordinance is to comply with the Clean Water Act, 33 U.S.C. § 1251 et seq.; Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; and the provisions governing "Treatment as a State". CWA § 518, 33 U.S.C. § 1377; SDWA § 1451, 42 U.S.C. § 300j-11.

(c) Tribal Water Quality Standards are provisions of law that:

(1) Specifically designate the uses of surface waters;

(2) Establish the water quality criteria that are necessary to protect designated uses; and

(3) Establish an antidegradation policy and implementation procedures for maintaining and protecting existing water quality.

(4) See Tribal Water Quality Standards Available through EPA, last visited April 18, 2006.

§ 102. Definitions. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Tribe or Band" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(b) "Council" means the governing body of the Grand Traverse Band Tribal Council.

(c) "GTB Department of Public Works" is the department that has been set up and is authorized to operate and maintain the community water and wastewater facilities and to provide utility services as directed by the Tribe.

(d) "Community Water System" means the water supply system owned by the Tribe.

(e) "Community Sewerage System" means the sewerage system owned and operated by the Tribe for the collection and disposal of liquid and water-carried domestic and industrial wastes.

(f) "Department" means the GTB Department of Public Works.

(g) "Plumbing Fixtures" means the receptacles, devices or appliances supplied with water or which

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receive or discharge liquids or liquid borne wastes, all necessary connecting pipes, fittings, control valves and appurtenances in or adjacent to the building.

(h) "Individual Sewage Disposal System" means a sewage disposal system other than the community sewerage system for the collection and disposal of human excreta, or liquid or water-carried wastes, or both from one or more premises and includes privies, septic tanks, soil-absorption systems, chemical type toilets and similar facilities, together with all necessary connecting pipes, fittings, control valves and appurtenances.

(i) "Domestic Well" means a well which serves or is intended to serve as a source of water supply or domestic use or drinking water.

(j) "Persons" means an individual, firm, partnership, association, organization, corporation, or other legal entity.

(k) "Commercial" means any building or facility which is not residential.

§ 103. Organization. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The affairs of the Department shall be managed by the Department's Manager. The Department Manager reports to the Tribal Administration.

(b) The Department Manager shall have the authority to exercise any and all powers delegated to the utility by this ordinance or any amendments thereto.

§ 104. Powers. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The Council, Tribal Manager, or Executive Assistant has the authority to enter into agreements, contracts, and understandings with any governmental agency, federal, state, or local or with any person, partnership, or corporation.

(b) To purchase insurance for any property or against any risk or hazard.

(c) To establish and maintain such bank accounts as may be necessary and convenient provided such accounts shall be fully covered by F.D.I.C.

(d) To levy and collect reasonable fees for utilities and services, including but not limited to monthly service charges, connection fees, penalties, construction permits, and other assessments deemed necessary by the Department Manager and approved by the Council.

(e) To issue bills and collect payment for sewer and water service from each individual, concern, or establishment served by the Tribally owned water and wastewater systems, and to maintain records of the income, disbursements, and expense of the operation of the systems.

(f) The Tribal Administration shall employ personnel to operate the water and sewer facilities, establish the duties and compensation of employees, and to pay this compensation as an operating expense of the community water and wastewater systems.

(g) The Tribal accounting department is responsible for the disbursement of monies for payment of existing and future operation and maintenance expenses of the community water and wastewater systems from the water and wastewater program account.

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(h) To prepare public notice of charge for water and sewer service to set the date for such charges to begin, and to send this notice to each individual, concern, or establishment served by the Community Water and Wastewater Systems.

(i) To establish a "connection fee" for water and wastewater service connections to all persons, businesses and non-Indian residences using water according to the size of water service and the purpose for which use is intended.

(j) To promulgate regulations to implement the authority of this ordinance.

§ 105. Effective Date. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The effective date of this ordinance is April 26, 2006, and supersedes all prior GTB Utility Department acts, ordinances, or resolutions except those resolutions related to the refinancing of the Grand Traverse Resort and Spa, LLC.

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CHAPTER 2
Department of Public Works Regulations

§ 201. Definitions. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

When used in the provisions of these regulations for the regulation of water and sewer facilities, the following words shall be defined as follows:

(a) "Community means the governmental entity known as the Grand Traverse Band of Ottawa and Chippewa Indians and its members in the State of Michigan.

(b) "Department" means the Grand Traverse Band Department of Public Works created by the GTB Department of Public Works Ordinance, enacted on April 26, 2006, pursuant to the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

(c) "Person" means an individual, firm, partnership, association, organization, corporation or other legal entity.

(d) "Community Water System" means all public water supply systems owned and operated by the Grand Traverse Band.

(e) "Community Sewerage Systems" means the sewerage systems owned and operated by the Grand Traverse Band for the collection, treatment and disposal of liquid and water-carried domestic and industrial wastes.

(f) "Plumbing Fixtures" means the receptacles, devices or appliances supplied with water which receive or discharge liquids or liquids-borne wastes, all necessary connecting pipes, fittings, control valves and appurtenances in or adjacent to the building.

(g) "Individual Sewage Disposal System" means a sewage disposal system other than the community sewerage system for the collection and disposal of human excreta, or liquid or water-carried wastes, or both, from one or more premises and includes privies, septic tanks, soil-absorption systems, chemical type toilets and similar facilities, together with all necessary connecting pipes, fittings, control valves, and appurtenances.

(h) "Domestic Well" means a well which serves or is intended to serve as a source of water supply for domestic use or drinking water.

(i) "Owner" means the legal owner of the premises which water or sewer service is to be provided.

(j) "Occupant" is the person of record who at that time is the head of the household occupying the home whether being rented, leased or authorized by the owner.

(k) "Cross-Connections" means a connection or arrangement of piping or appurtenances through which a backflow could occur.

§ 202. Utilization of Community Water and Sewerage Systems. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Public Policy of Grand Traverse Band.

(1) Use of Water Source Other Than Community Water System. It shall be the public policy of Grand Traverse Band to encourage any person constructing, maintaining or utilizing a source of

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water supply other than the community system for drinking and sanitation purposes to connect to the community water and sewer system. Individually owned and maintained domestic wells for irrigation purposes shall be permitted only upon compliance with requirements of the Michigan Department of Public Health, Indian Health Service, and the ordinances and regulations of the Grand Traverse Band Reservation.

(2) Disposal of Sewage and Liquid Wastes. It shall be the public policy of Grand Traverse Band to discourage any person from disposing of sewage, liquid wastes, or human excretion upon any premises located within 200 feet from any line of the community sewerage system or to provide for the disposal of such wastes from such premises other than through the utilization of the community sewerage systems.

(3) Occupancy of Certain Buildings. It shall be the public policy of Grand Traverse Band to encourage any person or occupant to not reside within any place of permanent or temporary residence of any building located within 200 feet of lines of the community water and sewerage systems or to conduct any business in any such buildings unless said building is connected to the community water line and the community sewerage system, provided, that in the case of temporary buildings to be occupied for periods of not more than 30 days in any one year upon application by the owner of such buildings and a showing satisfactory to the Authority that the source of water supply and the provision for sewage and waste disposal from such building is safe and adequate to protect the public health.

(4) Commercial Agricultural Uses. It shall be unlawful for any person to utilize the water from the system for any commercial agricultural uses. Individual gardens shall be considered domestic uses.

(5) Unauthorized Connections.

(A) It shall be unlawful for any person to connect any individual water service line to the community water system, or to repair, modify, or disconnect any such connection except as provided herein.

(B) It shall be unlawful for any person to connect any individual sewer service line to the community sewerage system or to repair, modify, or disconnect any such connection except as provided herein.

(6) Cross-Connections. The customer shall not make a cross-connection with the Tribal Public Water Supply. A cross-connection is defined as any physical connection between the Tribal Public Water system and another piping system. Any individual source must be totally disconnected from the household plumbing prior to connection to the Tribal Public Water Supply. "Disconnection" done solely by a valve shall not be allowed. (See Chapter 4, Cross-Connection Control Ordinance.)

(7) Unauthorized Disposal. The customer shall not dispose of any material into the sanitary sewer which may cause the collection lines to become blocked or excessively loaded with solids, including but not limited to garbage, disposable diapers, sanitary napkins, paper material other than toilet paper, cigarette waste, cat litter, etc. The installation and use of garbage grinders on household waste plumbing is prohibited.

(8) Toxic Waste Disposal. No customer shall dispose of any toxic, radioactive or otherwise hazardous waste into any sanitary or storm sewerage system. Toxic and hazardous waste includes but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons, medical

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waste, antibiotics, and other manufactured chemical compounds.

(b) Order for Connection and Failure to Comply.

(1) If any person fails to comply for more than 10 days after notice in writing from the Tribe or from the GTB Department of Public Works to make a connection or otherwise comply with these regulations and any regulations issued pursuant thereto, the Tribe may cause connection to be made or compliance to be effected, and the expense thereof shall be assessed against his/her per capita.

(2) The owner may within 30 days after the completion of the work file a written option with the Tribe stating that he/she cannot pay such amount in one sum and ask that it be levied in not to exceed five equal annual installments, and the amount shall be collected with interest at the rate of 10% per annum from the completion of the work.

(3) The unpaid balance shall constitute a special tax lien on per capita installments.

(4) Nothing in the foregoing provisions shall exempt such owner from being proceeded against for creating a public nuisance or from any of the penalties provided in these regulations.

(c) Connections to Community Systems.

(1) Making of Connections. All individual water service and sewer service connections and repairs, modifications, or disconnections shall be made only by a Michigan licensed plumber or contractor, upon approval of an application/permit and shall be done at the expense of the applicant or user. The permit can be obtained at the GTB Department of Public Works.

(2) Application for Water Service Connection.

(A) Each application for water service connection, repair, modification or disconnection shall be made in writing to the GTB Department of Public Works and shall be signed by the owner of the premises and shall include the following:

(i) Legal name and address of the applicant.

(ii) Description of the property and building for which the water service is requested.

(iii) The name and address of the person who will install the service lines from the building to be served to the community water system.

(iv) A description of the fixtures to be used in the structure or building.

(v) An agreement to be responsible for and to pay promptly all charges for the service in accordance with the applicable schedule of charges for the service.

(vi) Such additional information as the GTB Department of Public Works may require to demonstrate that the proposed connection complies with these regulations and any applicable regulations promulgated by the Grand Traverse Band Department of Public Works.

(B) All application/permit fees shall be paid in full to the GTB Department of Public Works prior to issuance of any application permit.

(3) Application for Sewer Service Connection.

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(A) Each application for sewer service connection, repair, or modification shall be made in writing to the GTB Department of Public Works, shall be signed by the owner of the premises and shall include the following:

(i) Legal name and address of the applicant.

(ii) Description of the property and building to be served.

(iii) A plan of the proposed location of all fixtures to be served and of the service lines to be installed including a description of the type and size of pipe showing the elevation of all fixtures and the service lines.

(iv) The name and address of the person who will install the service lines from the building to be served to the community sewerage system.

(v) An agreement to be responsible for and to pay promptly all charges for the service in accordance with the applicable schedule of charges for the service.

(vi) Such additional information as the GTB Department of Public Works may require to demonstrate that the proposed connection complies with these regulations and any regulations promulgated by the Grand Traverse Band Department of Public Works.

(B) All application/permit fees shall be paid in full to the GTB Department of Public Works prior to issuance of any application permit.

(4) Approval of Application. If the GTB Department of Public Works is satisfied that the application and the proposed connection complies with these regulations and applicable regulations hereunder related to the utilization of the community water and sewerage system, it shall approve the application and make or allow the connection applied for, provided that, the GTB Department of Public Works may impose such conditions on its approval as it considers necessary to assure the safe and proper utilization and operation of the community water and sewerage systems.

(5) Hearing on Denial of Application. Any person whose application for a connection has been denied or approved with conditions may within 10 days of official notification of the GTB Department of Public Works action, file a written request for a hearing before the Director of Public Works; if results of the hearing are unsatisfactory to the individual a hearing with the Tribal Manager can be requested. Such hearing shall be held within 30 days after the filing of the request and upon reasonable notification of the applicant. The GTB Department of Public Works shall affirm, modify, or revoke the application.

(6) Installation of Service Lines.

(A) All service lines from the building to be served to the point of connection to the community water or sewerage system shall be installed by the user or owner at his/her own expense, including the connection to the main.

(B) The user and/or owner shall be responsible for the cost of maintenance and repair of his/her water and sewer service lines.

(7) Meters. All commercial facilities/structures that are connected to any of the Tribally owned public water systems are required to install a water meter. All meters for measurement of utility services provided shall be installed in accordance with the requirements of the Department in

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such locations as determined by the Department and shall be maintained by the Department. All meters shall remain accessible to Department personnel and no person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of these regulations and subject the violator to actual damages and civil penalties under these regulations. The assignee of the property on which the meter is located shall be responsible for all damage to or tampering with the turn off/on water valve attached to such meter.

- All residential connections to a Tribally owned public water supply shall be metered.
- All new construction shall be metered prior to connection.
- All existing connections shall be metered at the owner's expense.

(8) Rate Schedule. There will be a rate schedule established by the Department of Public Works providing services to water and sewer customers. This rate schedule will include but is not limited to a metered rate and/or a monthly fee determined by the size of the service connection.

§ 203. Inspections. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Authorized Inspections. The Grand Traverse Band Department of Public Works, and its authorized agents, as well as the authorized agents of the Tribe, are hereby authorized to make such inspections at reasonable times during daylight hours as are necessary to determine satisfactory compliance with these regulations and the regulations promulgated hereunder.

(b) Duty to Permit Entry. The owner and occupant of a property shall provide such agents of the GTB Department of Public Works and of the Tribe access to the property for the purpose of making such inspections, and to read meters.

§ 204. Operation and Maintenance. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Administration.

(1) Responsibility for operation and maintenance of the water and sewerage systems shall be vested solely in the Grand Traverse Band Department of Public Works, including the responsibility of making the necessary inspections.

(2) Responsibility for enforcement of these regulations shall be vested in the GTB Department of Public Works, which shall report all instances of violation and noncompliance to the Grand Traverse Band Tribal Manager, then to the Tribal Council. Responsibility for legal action to enjoin violations, to enjoin public nuisances, to collect penalties, and to prosecute violators shall be vested in the GTB Department of Public Works, which shall be obligated to take any appropriate legal action based upon a complaint filed by a resident of the community or customer of the GTB Department of Public Works.

(3) The GTB Department of Public Works shall collect, retain and disburse all charges and fees in accordance with the schedule of charges and fees established. Such schedule of fees and charges may be amended or altered by the Department in the manner provided, but such schedule and the amendments thereto shall have no force nor effect until duly posted as provided. Such schedules shall be approved by the Tribal Council of the Grand Traverse Band Reservation.

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(4) Regulations.

(A) Rules and regulations of the GTB Department of Public Works under these regulations shall be adopted or amended after a public hearing. Notice of the proposed action shall contain the entire text of the proposed rules or regulations or shall state generally the substance thereof and advise where the text is available, the time and place of the hearing, and shall be posted for public inspection at the office of the GTB Department of Public Works for a period of not less than 10 days prior to the date of the hearing.

(B) A current file of all rules and regulations adopted by the GTB Department of Public Works under these regulations shall be available for public inspection during regular business hours at the office of the GTB Department of Public Works.

(C) The GTB Department of Public Works is authorized to adopt and amend from time to time, rules and regulations to carry out the provisions of these regulations; but no person shall be bound for any such rule or regulation unless it shall have been posted for public inspection for 10 consecutive days before its adoption. All amendments are subject to approval or disapproval by the Grand Traverse Band Tribal Council.

(b) Operation and Maintenance of Water and Sewerage Systems.

(1) Standards for Installation. The GTB Department of Public Works may promulgate, alter and amend regulations establishing standards for the installation of domestic fixtures to be served by connections to the community water and sewerage systems, and for the installation of water and sewer service lines, for the purpose of assuring the safe and efficient utilization of the community systems. All service lines shall be installed in accordance with such applicable standards.

(2) Standards of Operation and Maintenance. The GTB Department of Public Works shall operate and maintain the water and sewer systems in accordance with the provisions of these regulations, as amended, and in compliance with the standards and requirements for operation and maintenance from time to time promulgated, ordered or defined by executive agencies of the federal government with subject matter jurisdiction.

(3) Consumer's Option to Install New Meter. If the Residential consumer is unhappy with the basis of charge, he/she can at his/her own expense obtain a water meter of a type approved by the American Water Works Association. The consumer also must furnish test results to verify that the meter registers within 2% plus or minus of the true amount of water delivered on the maximum flow for the size and type of meter supplied. The meter will then be installed at the customer's expense and read periodically by the GTB Department of Public Works employees. The water bill will then be computed on the basis of the gallons actually used according to the rate in the fee schedule. The sewer bill will equal to 100% of the water bill and in no case will the minimum charge for water and sewer service be less than the flat rate charge for residential use. Meter accuracy must be affirmed by a qualified test facility at least once every three years at the consumer's expense.

No meter shall be removed or otherwise disturbed except by GTB Department of Public Works employees or parties authorized by the Tribal Manager and/or Tribal Council.

(4) General Rules With Respect to Large Users of Water.

(A) Before proceeding with the purchase of any equipment which will necessitate the use of

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large quantities of water within short periods of time, the GTB Department of Public Works shall be consulted for advice as to the best method of installation and for information concerning the conditions under which the water will be supplied to the premises of the customer.

(B) In general, the GTB Department of Public Works reserves the right to limit the size of service connections or opening through which its service is furnished for filling storage tanks, hydraulic equipment, private fire service, or other classes of service capable of drawing relatively large quantities of water and thereby causing undue fluctuations of pressure in portions of the system.

(5) Termination of Service; Abandonment. A customer planning to vacate the grounds, building or residence served by the GTB Department of Public Works shall notify the GTB Department of Public Works in writing one week prior to the date the customer plans to either vacate or terminate service, whichever is later. A customer who fails to give notice is responsible for all charges accrued up to one week after notice is received by the GTB Department of Public Works, or up until service is terminated, whichever comes first.

(6) Occasional Service. Excessive water taken from a tap and used for construction work, must be covered by a written permit which can be obtained only from the GTB Department of Public Works. No contractor or construction worker shall draw excessive water from the community system without obtaining a permit. No customer shall allow any contractor, mason, laborer or other person to take excessive water from the customer's premises without presentation of a permit from the Department. A customer failing to comply with this rule shall have his/her service shut off, and upon conviction thereof shall be punished as provided in Chapter II.

(7) Waste of Water Prohibited. Excessive use of or waste of water whether caused by carelessness or defective or leaking plumbing is strictly prohibited and is cause for termination of service. The GTB Department of Public Works shall reserve the right to determine excessive use.

(8) Limitations of Sprinkling. In the event there shall be a shortage of supply of water for any reason, and particularly in the summer due to heavy sprinkling, the GTB Department of Public Works may declare an emergency to exist in which event the water users shall be restricted in the use of water for sprinkling, as determined by the GTB Department of Public Works. The emergency shall be deemed to exist until the GTB Department of Public Works shall proclaim by another notice that the same has terminated.

§ 205. Penalties; Savings Clause; Effective Date. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Penalties. Any person who violates, refuses to comply with, or resists the enforcement of, any of the provisions of these regulations shall be subject to a fine of not less than $25 nor more than $500 by the GTB Tribal Court.

(b) Other Proceedings. Nothing in the foregoing Article A shall exempt such violator from being proceeded against by the GTB Department of Public Works for creating a public nuisance nor from having water or sewerage services terminated by the GTB Department of Public Works.

(c) Conflict of Ordinances or Regulations; Effect of Partial Invalidity. In any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire safety, or health ordinance, code or resolution, existing on the effective date of these regulations, the provision which, establishes the higher standard for the promotion and protection of the health and safety of the

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people, shall prevail; in any case, a ordinance, which establishes a lower standard for the promotion and protection of the health and safety of the people than the provisions of these regulations, shall be superseded by these regulations, and such other ordinances, codes, resolutions are hereby declared to be repealed to the extent that they may be found in conflict with these regulations.

If any chapter, subchapter, paragraph, sentence, clause, or phrase of these regulations shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and, to this end, the provisions of these regulations are hereby declared to be severable.

(d) Damages; No Claims For. No persons using water or sewer services provided by the GTB Department of Public Works shall enter a claim against the GTB Department of Public Works, the Tribe or the office thereof for damages to any fixture or appurtenance by reason of back-up of sewage or sewer gas or interrupted water supply or variation pressure, or for damages of any nature caused by turning off or on either partially or entirely, of the water supply for any premises, either for repairs or alterations of any water main, or for the discontinuance of the service to his or their premises for violation of any rule or regulation of the GTB Department of Public Works. No claims will be allowed against the GTB Department of Public Works on account of interruption of supply caused by breaking of pipes or by stoppage for repairs or for fire or other emergency. In case of a probable stoppage of water supply when time of interruption can be forecast, every reasonable attempt will be made by the GTB Department of Public Works to acquaint the consumer with the action proposed.

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CHAPTER 3

GTB Department of Public Works - Operating Guidelines

[History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

This Plan of Operation and any amendments thereto shall serve as the operating guideline for the GTB Department of Public Works ("Department").

§ 301. Purpose. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The purpose of the Department will be to manage, operate, and maintain utility systems of the Grand Traverse Band of Ottawa and Chippewa Indians ("GTB," "Tribe").

§ 302. Place of Business. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The Department will maintain an office in Peshawbestown, Michigan. Its address will be:

Grand Traverse Band Department of Public Works
2605 N. West Bayshore Drive
Peshawbestown, MI 49682

§ 303. Services Offered. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Water Service. The Department is responsible to provide safe, adequate water for a fee to those houses connected to the mainlines of Tribally owned public water systems. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the curb stops only. The service line from the curb stop to the house or building and the interior plumbing are the responsibility of the customer.

(b) Sewerage Service. The Department is responsible to provide sanitary disposal of domestic waste for a fee to those houses and businesses connected to the main lines of the community sewerage systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines only. The Service line from the property line to the house or business and interior plumbing are the responsibility of the customer.

(c) Customer Service. To ensure the provision of adequate water and sewerage service to its customers, the Department will retain qualified personnel on duty or on call at all times. The Department will respond as quickly as possible to breakdowns and other emergencies. The Department's personnel can be contacted at 231-534-7376.

(d) Septic Tank Service. The Department may elect to provide for pumping of individual septic tanks for a fee. Responsibility of the Department will cover only such elective pumping. The Department cannot guarantee the operation of improperly designed, maintained or constructed septic tank systems.

(e) Other Services. The Department may agree to perform under contract with governmental, tribal, or private bodies, construction or operation and maintenance services.

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(f) Future Services. At some future date, the Department may assume responsibility to provide solid waste disposal, electrical, gas, telephone, or other utility services. None of these services are available through the Department at the present time.

§ 304. Services Covered. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Water (Community Systems).

(1) All Grand Traverse Band Public Water Systems within the six-county service area. Currently: Peshawbestown, Turtle Creek and the Grand Traverse Resort.

(b) Sewerage (Community Systems).

(1) All Grand Traverse Band Community Sewer Systems within the six-county service area. Currently: Peshawbestown and Turtle Creek.

(c) Those individuals not on the community water or sewer systems are responsible for maintenance of their individual systems.

§ 305. Maintenance Schedule. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The Department will develop and follow a regular schedule of maintenance services for each water and sewage system. These services will include, but not be limited to the following:

(a) Water Systems - Community Water Systems.

(1) Inspect and operate all valves and hydrants.

(2) Inspect and repair water mains for leaks or damage.

(3) Flush water lines.

(4) Inspect storage tank and level indicators.

(5) Adjust and service controls.

(6) Maintain all components as necessary.

(7) Collect all water samples as required by the Safe Drinking Water Act, 25 U.S.C. §§ 300f — 300j-26.

(b) Sewerage Systems - Community Sewerage Systems.

(1) Flush sewer mains.

(2) Remove debris from manholes.

(3) Inspect and service lift stations.

(4) Operate and maintain wastewater treatment plants.

(5) Perform all sampling and testing in accordance with the NPDES permit requirements.

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§ 306. Rate Structure. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The rate structure and fee schedules shall be determined based on the actual costs of operation and maintenance for each of the systems. All rates and fee changes must be approved by the GTB Tribal Manager. The fee schedules are available at the Department's office in Peshawbestown.

§ 307. Billing and Collection. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The Department will maintain a complete and up-to-date record of all customers served by those systems operated by the Department. Additions and deletions will be made as soon as the Department learns of changes.

(b) The Department will send out a water and wastewater bill for services on the first day of each month. Payment will be due on the 10th day of the month. Non-payment by the 20th day of the following month will be cause for the Department to shut off the customer's water service.

(c) Customers may make payments by cash, check or money order at the GTB Housing Department office in Peshawbestown, Michigan. The customers will receive a signed receipt for payment.

(d) Customers requesting new services or re-connection shall make arrangements with the Department works for payment prior to receiving the services.

(e) If a customer's water service is discontinued they must pay all of the delinquent charges plus the re-connection fee before the Department will restore water service.

§ 308. Enforcement. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The Department is hereby authorized by the GTB Tribal Council to collect fees for services and to shut off services for non-payment.

(b) The Department shall enforce its regulations and fee collections by shutting off water service of any and all violators and delinquent bill payers; provided, however, that any shut off of water service shall not be effected if the water user is currently a family in crisis, receiving GTB or state human services. The Department shall not seek to attach customer's property, nor seek to have fines assessed by the GTB Tribal Court, except in limited cases of blatant or continued abuse or destruction of property.

§ 309. Bookkeeping and Handling of Funds. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The Department will follow normal Tribal procedures for bookkeeping and banking. This will allow convenient handling of funds through the same bank of the Tribe, while also providing separate accounting of the Department's funds.

(b) Actual handling of the Department's funds will be handled by the GTB Accounting Department.

(c) All accounts and ledgers of the Department shall be available for audit at any time by the Tribal Auditor or auditor of the Tribe's choice.

§ 310. Management. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

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(a) The Department will manage the operations of the water and wastewater facilities. The water and wastewater program director will have the responsibility to direct the work of all employees of the Department. He or she shall establish a direct chain of command for orderly functioning of the office and operation and maintenance of the utility systems.

(b) Job descriptions for all employees will be developed and followed.

(c) Employees of the Department will receive wages and benefits comparable to employees of the Tribe. Employees will retain their right of final appeal to the Tribal Grievance Committee should any dispute with the Department Manager not be resolved.

§ 311. Grievance Procedure. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The Department is designed to serve the people of the Tribe and the community it serves. Any grievance or customer complaint should be put in writing and delivered to the GTB Administration Building, and shall follow the "Statement of Due Process" procedures.

§ 312. Amendments or Revisions. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The Plan of Operation may be amended by a simple majority vote of the GTB Tribal Council as provided by law.

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CHAPTER 4

GTB Department of Public Works - Cross-Connection Control Rules

[History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

In accordance with the requirements set forth by the Safe Drinking Water Act, 42 U.S.C. §§ 300f - 300j-26, and by the Michigan Department of Environmental Quality ("MDEQ"), the Grand Traverse Band of Ottawa and Chippewa Indians ("GTB," "Tribe") has hereby adopted the State of Michigan's cross-connection control rules to protect the Tribally owned public water supply systems.

§ 401. Definitions. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) "Cross-Connection" is defined as a connection or arrangement of piping or appurtenance through which a back flow could occur.

(b) "Backflow" means water of questionable quality, waste, or other contaminants entering a public water supply system due to a reversal of flow. The cross-connection control program will take effect upon approval of this ordinance by the Tribal Council.

§ 402. Authority. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The authority to carry out and enforce a local cross-connection control program will be in accordance with the GTB Department of Public Works Ordinance.

§ 403. Right of Entry; Inspection. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The GTB Department of Public Works, or representative of, shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the Tribe for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connection.

§ 404. Local Inspections. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The GTB Director of Public Works and/or his designated agent shall be responsible for making the initial cross-connection inspections and re-inspections to check for the presence of cross-connections with the public water supply systems. Individuals responsible for carrying out the cross-connection inspections and re-inspections shall have obtained necessary training through any available manuals on cross-connection prevention, including the Cross Connection Rules Manual as published by the MDEQ and attendance of any cross-connection training sessions sponsored by the MDEQ or other recognized agencies.

§ 405. Inspection Schedule. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special

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Session on April 26, 2006.]

The schedule for inspections shall be in accordance with the following general outline:

(a) Known or suspected secondary water supply cross-connections shall be inspected first (surface water, wells with isolation, construction, and/or bacteriologic records not acceptable or ascertainable, recirculated water, etc.).

(b) Known or suspected submerged inlet cross-connections will be inspected next.

(c) In general, emphasis will be placed on making inspections initially of all industrial and commercial establishments or where cross-connections are known or suspected to exist. A general area review will follow in a logical sequence as time permits. Emphasis will be placed on inspecting all industrial and commercial establishments.

§ 406. Re-Inspection Schedule. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) In order to assure against the hazards of cross-connections, it will be necessary to periodically and systematically re-inspect for the presence of cross-connections. The schedule for re-inspection shall be in accordance with the schedule as noted in the Cross Connection Rules Manual. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, re-inspections of the premise will be made.

§ 407. Protective Devices. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The methods to protect against hazards of cross-connections as outlined in the Cross Connection Rules Manual will be incorporated into the Tribal cross-connection control program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the GTB Director of Public Works shall first be obtained.

§ 408. Compliance Time. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

The time allowed for correction or elimination of any cross-connection found shall be as follows:

(a) Cross-connections which pose an eminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made.

(b) Cross-connections which do not pose an extreme hazard to the water supply system, but nevertheless constitute a cross-connection should be corrected within a reasonable period of time. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection. The water utility shall indicate to each customer where a cross-connection is found to exist, and the time period allowed for compliance [30 to 60 days is usually sufficient time for small devices].

§ 409. Testable Devices. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) All testable devices shall be tested upon installation and at one year intervals in accordance with the Cross Connection Rules Manual. Records of test results shall be provided to and be maintained by

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the GTB Department of Public Works. All costs incurred for the testing of backflow prevention devices shall be the responsibility of each facility equipped with such devices. Only individuals approved by the GTB Director of Public Works shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.

§ 410. Residential Dual Check. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Effective the date of the acceptance of this Cross-Connection Control Program for the Tribe, all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the GTB Department of Public Works.

(b) The owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his/her residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his/her closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

§ 411. Strainers. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The GTB Department of Public Works strongly recommends that all new retrofit installations of reduced pressure principle devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

§ 412. Facilities/Residences With Individual Wells. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Any individual water source must be totally disconnected from the household or facility plumbing prior to connection to a Tribal Public Water Supply. "Disconnection" done solely by a valve shall not be allowed.

§ 413. Enforcement. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The GTB Department of Public Works is authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this ordinance exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this ordinance.

(b) This ordinance and rules do not supersede the state or national plumbing code, but is supplementary to them.

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CHAPTER 5
GTB Department of Public Works - Customer Service Connections

(a) A Water/Sewer Permit must be obtained from the GTB Department of Public Works before making any connections to the Grand Traverse Band Community Water or Sewer System.

(b) Any and all work must be inspected by the GTB Department of Public Works prior to covering. A licensed plumber must perform all meter installations and all materials must meet the following specifications.

§ 501. Water Service Lines. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) General Requirements.

(1) All water service lines will be installed at locations specified by the Tribal Utility or Project Engineer.

(2) Minimum diameter shall be one inch. The diameter of the service lines greater than 200 feet in length shall be sized larger as approved by the Tribal Utility.

(3) All water service lines must be buried a minimum depth of six feet. All traveled areas, including driveways and walkways, must have two-foot-wide and three-inch thickness of extruded polystyrene insulation [25 psi compression] centered over the pipe. A minimum of two feet of cover is required over the insulation.

(4) Splices are not allowed in the service line without the written permission of the Tribal Utility. Splices will not be permitted within 10 feet of a sewer line.

(5) All service lines must be tested under pressure by turning on the corporation stop and applying main pressure to the service line before backfilling. A Tribal Utility representative or Project Engineer must witness all testing.

(6) Shutoff of mains will not be permitted overnight, over weekends, or on tribal or federal holidays.

(7) A minimum of three days' notice must be given to the Tribal Utility before any connections are made.

(8) Any residents or businesses that will be affected by water shutoff must be notified of the day and time of shutoff, a minimum of two working days in advance. (Coordinate with the Tribal Utility.)

(9) Work shall not start until all materials, equipment and labor are on site.

(10) All connection components must be cleaned with a 50 ppm (minimum) chlorine solution prior to installation.

(11) Once work has started, it shall proceed continuously without interruption, and as rapidly as possible until completed.

(12) Backfill six inches in all directions around the service lines with coarse sands and gravels with maximum particle size of 1 1/2 inch, clean or borderline clean. If existing material is unsuitable for backfilling then suitable backfill shall be trucked in and installed around the service line.

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(13) In no event shall any frozen material be used for backfill.

(14) Any and all trenching and excavation work shall be done in accordance with proper emphasis on safety as determined by the contractor to conform to recommended safety standards such as OSHA 1910 and 1926.

§ 502. Water Service Line Materials. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Polyethylene Pipe (PE) or Copper Pipe shall be used for all service lines from the main line to the home or building being served.

(1) PE pipe shall be CTS (Copper Tube Size) size with a minimum pressure rating of 160 psi. Pipe shall conform to AWWA C901 and be suitable for public water supply.

(2) Compression couplings with stainless steel stiffeners must be used at all joints and couplings for PE pipe.

(3) Copper pipe shall be Type K, suitable for public water supply.

(b) Saddles - A saddle must be provided as part of the service connection if one does not already exist on the mainline. One of the following saddle types shall be used based on the pipe size.

(1) PVC SDR 26 or SDR 21 IPS Pipe: Stainless steel double bolt saddle clamps equal Cascade style CSC2 or to Ford style FS202.

(2) PVC C900 or Ductile Iron Pipe: Stainless steel single bolt saddle clamps equal to Ford style FS101.

(c) Corporation Stops - A corporation stop must be provided as part of the service connection if one does not already exist on the mainline. All corporation stops shall be brass with compression connections. All connections shall be live tapped through the corporation stop with an approved tapping machine.

(1) For CTS PE or copper pipe: Use A.Y. McDonald 4704 - 22 or Mueller H-15028.

(d) Curb Stops - A curb stop must be provided as part of the service connection if one does not already exist. Use best quality brass Minneapolis pattern curb stops. All curb stops must be set on a solid block four inches thick by eight inches by 16 inches and placed on undisturbed earth.

(1) For CTS PE or copper service line: Use Mueller H - 15155, A.Y. McDonald 6104 - 22, or equal.

(e) Curb Boxes with Stationary Rod - A curb box with a stationary rod must be provided as part of the installation if one does not already exist. The top of all curb boxes will be set flush with the ground or adjacent sidewalk or curb. Curb boxes must be supported during the backfilling operation to prevent movement, and a vertical position must be maintained. The rod must extend to within six inches of the top of the curb box.

(1) Cast iron Minneapolis pattern, six feet in length with stationary rod.

(2) One-inch service line: Mueller H - 10302, Ford EM2 style or equal.

(3) Curb box lids: Mueller No. 89376, A.Y. McDonald 5607L or equal.

(f) Freezeless Risers And Fittings - Freeze less risers must be installed on all mobile homes. No galvanized fittings or kinks in copper tubing are allowed. All risers must be installed directly below

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the point of connection to the house plumbing whenever possible. Set risers at an angle that will allow for the removal of the interior components of the riser without moving the mobile home or excavating the freeze less riser. Risers shall be equal to True-Temp Positive Purge Model 7PPDB with copper riser pipe or Thermaline model 15. A hand-operated shut off valve shall be placed at the home entrance. Shut off valves installed above floor grade shall be equipped with non- thermostatically controlled heat tape.

(g) Meters - All connections are required to install a Neptune T-10 water meter with a ProRead remote reading device. All commercial connections shall be metered with the appropriate size meter based on the size of the service line. The Tribal Utility prior to installation must approve all commercial meter selections.

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CHAPTER 6
GTB Department of Public Works - Fluoridation

§ 601. System Design Requirements. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) General. The following equipment design requirements shall apply to all new community drinking water systems that will have additional Fluoride added to the water. Paragraphs (1) and (2), below, must be incorporated within 60 days of approval of this ordinance on all current community drinking water systems adding Fluoride to the drinking water.

(1) The fluoride chemical pump must be installed so that it cannot operate unless water is being pumped into the system past the injector.

(2) It must be made physically impossible to plug the fluoride-metering pump into any standard continuously energized (hot) electrical outlet. The fluoride metering pump, the flow switch, and the water pump control circuit must be connected in series along with a parallel circuit containing an adjustable timer and holding circuit with both of the later two items connected in series with each other. It is the intent of this description to have the twist lock design electrical outlet into which the fluoride-metering pump is plugged and energized only when there is flow from the water pump. If two water pumps are normally pumping together when water production is requested, each water pump shall have a flow switch and both flow switches shall have to be closed before the outlet that energizes the fluoride-metering pump is energized.

(3) All the water to be treated must pass the fluoride injection point.

(4) The fluoride injection point in a water line should be located in the lower 1/3 of the pipe, and the end of the injection line should extend into the pipe approximately one third of the pipe's diameter.

(5) A corporation style stop valve shall be connected into the water production pipe at the fluoride injection point. A stainless steel safety chain or cable shall be installed connecting the injector assembly to the corporation stop to protect the water plant operator and water plant from a possible blowout of the injector assembly.

(6) Two diaphragm-type, antisiphon devices shall be installed in the discharge line coming from the fluoride-metering pump. The antisiphon device should have a diaphragm that is spring-loaded in the closed position. These devices should be located at the fluoride injection point and at the metering pump head on the discharge side.

(7) The fluoride metering pump should be located on a shelf not more than four feet [1.2 meters] higher than the lowest normal level of liquid in the solution container.

(8) For safety, fluoride-metering pumps should be sized to feed not more than 1.0 mg/L fluoride in the water near the stroke and speed settings that are equal to 50% of the metering pump total capacity 49% of capacity of an electronic chemical pump is achieved at speed and stroke settings of 70].

(9) The priming switch on the metering pump should be spring-loaded to prevent the pump from being started erroneously with the switch in the priming position.

(10) No customer shall be allowed to connect to the finished water line within 100 feet 30.5 meters] of the fluoride injection point without the installation of an in-line mixer, small mixing tank or

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storage tank within that 100 feet.

(11) A master meter must be on the main water service line so that calculations can be made to confirm that the proper amounts of fluoride solution are being fed.

(12) The fluoride feed lines must be clearly identified by some means and the direction of flow indicated on the lines. If a color code is used, it should be light blue with red bands.

(13) All hose connections within reach of the fluoride feed equipment should be provided with a hose bib vacuum breaker.

(14) All fluoride chemicals must conform to the appropriate American Water Works Association (AWWA) standards (B-701). It is recommended that a one-year supply of fluoride chemical be maintained to minimize the effect of a possible fluoride chemical shortage.

(15) Cross-connection controls that conform to this ordinance must be provided.

(b) Injection Systems. The following injection systems are approved for installation in Grand Traverse Band community water systems.

(1) Sodium Fluoride Saturator System.

(A) When using this system, the installation shall be installed using the guidelines developed by the CDC as referenced in Paragraph 4d.

(B) Unsaturated (batch-mixed) sodium fluoride solution shall not be used in water fluoridation. Soften water used in the saturator to less than four grains hardness.

(C) Only granular sodium fluoride should be used in saturators for operator safety and to prevent plugging the saturators.

(c) Frequency.

(1) Water system personnel must monitor fluoride levels in each water distribution system at least five days per week. On systems that are inspected daily, the fluoride levels must be inspected daily. Samples that will reflect the actual level of fluoride in the water system should be taken at points throughout the water system.

(2) A testing plan shall be developed for each system so that each portion of the system is tested within 30 days.

(d) Split Sampling.

(1) At least once each quarter, a sample from each water distribution system where fluoride is injected shall be divided with one portion analyzed for fluoride by water system personnel and the other portion analyzed by an EPA approved laboratory. The results of the split sample should be within 20% of the value of the EPA approved laboratory. Variations beyond this should be investigated for consistency with previous deviations, quality of mixing, and method of sampling.

(e) Calculated Dosage. Water system personnel must calculate the fluoride levels in each water distribution system at least five days per week. On systems that are inspected daily, the fluoride levels must be calculated daily. This is done using the weight of fluoride injected compared to the volume of water pumped since the last measurement.

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$$\text{Calculated Dosage (mg/L)} = \frac{\text{fluoride fed (lbs) x AFI x chemical purity\}}{\text{Actual production (MG) x 8.34 lbs/gal}}$$

(Where AFI is the Available Fluoride Ion Concentration)

(f) Acceptable Range of Fluoride Levels. The optimal range for fluoride levels in the Grand Traverse Band Community Water Systems is 1.1 ppm to 1.5 ppm. When a test result is at or near the top end of the analyzer scale, the water sample must be diluted and retested to ensure that high fluoride levels are accurately measured. Immediate action must be taken if the fluoride level exceeds this range. Table 1 indicates the required action for any overfeeds. Table 2 provides the recommended optimal fluoride levels based on the annual average of maximum daily air temperatures.

(g) Source Water Testing. The source water from each well located in a community water system injecting fluoride shall be tested on an annual basis with the sample to be taken before the injection point. The testing shall be completed by an EPA approved laboratory. This value shall be used to adjust the dosage of fluoride added to the system.

§ 602. (Reserved) [History: No § 602 was included in Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

§ 603. Reporting. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The operator shall keep a daily logbook at each system injecting fluoride of all fluoride test results noting the date, test results and location in the system. The logbook shall include the date, place, time of sampling and the name of the person who collected the sample.

(b) The operator shall keep a daily logbook at each system injecting fluoride of all calculated test results including the amount of fluoride used, make-up water used, and the pumping records. The logbook shall include the date, place, time of sampling and the name of the person who collected the sample.

(c) The operator shall record the split sample results on a quarterly basis and maintain a file of test results and comparisons.

(d) The summary of all fluoride test results should be made available to other Grand Traverse Band departments if requested.

(e) The test record file shall be maintained for a period of not less than two years.

§ 604. System Maintenance. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Operation and Maintenance schedules (O&M) must be established to maintain the equipment. See Table 3 for recommended maintenance.

(b) Fluoride feed equipment, controls, safety equipment and plan, storage area, testing equipment, accessory equipment, and other appurtenances must be inspected annually.

(c) All antisiphon devices must be dismantled and visually inspected at least once a year.

§ 605. Safety Procedures. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

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(a) The use of personal protective equipment (PPE) is required when fluoride compounds are handled or when maintenance on fluoridation equipment is performed. See Personal Protective Equipment, Occupational Safety and Health Program Act (6 HCC § 8-7).

(b) An on-site emergency plan must be established and maintained for each water system injecting fluoride and should be based on the type of fluoride used. This plan must include public notification procedures based on Table 1.

(c) Sodium Fluoride System (Saturator System).

(1) The operator shall wear the following PPE:

(A) A National Institute for Occupational Safety and Health (NIOSH)/Mine Safety and Health Administration (MSHA) approved, N-series particulate respirator (i.e., chemical mask) with a soft rubber face-to-mask seal and replaceable cartridges.

(B) Splash-proof safety goggles;

(C) Gauntlet neoprene gloves with cuffs, which should be a minimum length of 12 inches [30.5 cm]; and

(D) Heavy-duty, acid-proof neoprene apron.

(2) A safety shower and an eye wash station utilizing tempered water is an option for pumphouses using this method of fluoride mixing. The use of other chemicals in the pumphouse may change this requirement.

Table 1: Recommended Fluoride Overfeed Actions for Community Water Systems

Source: U.S. Department of Health, Centers for Disease Control, Engineering and Administrative Recommendations for Water Fluoridation, 1995

Fluoride Level	Actions Recommended
0.1 mg/L above control range to	1. Leave the fluoridation system on.
2.0 mg/L	2. Determine malfunction and repair.
2.1 mg/L to 4.0 mg/L	1. Leave the fluoridation system on.
	2. Determine malfunction and repair.
	3. Notify supervisor and report the incident to the Office of Environmental Health.
4.1 mg/L to 10.0 mg/L	1. Determine malfunction and immediately attempt to repair.
	2. If the problem is not found and corrected quickly (within 1 hour), turn off the fluoridation system. Notify supervisor and report the incident to the Office of Environmental Health.
	3. Take water samples at several points in the distribution system and test the fluoride content.
	4. Retest if results are still high.

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Table 1: Recommended Fluoride Overfeed Actions for Community Water Systems	
Source: U.S. Department of Health, Centers for Disease Control, Engineering and Administrative Recommendations for Water Fluoridation, 1995	
Fluoride Level	**Actions Recommended**
	5. Determine malfunction and repair. Then, with the supervisor's permission, restart the fluoridation system.
10.1 mg/L or Greater	1. Turn off the fluoridation system immediately.
	2. Notify supervisor and report the incident to the Office of Environmental Health and follow their instructions.
	3. Take water samples at several points in the distribution system and test the fluoride content. Retest if results are still high. Save part of each sample for an EPA approved laboratory to test.
	4. Determine malfunction and repair. Then, with the supervisor and Office of Environmental Health's permission, restart the fluoridation system.

Table 2: Recommended Optimal Fluoride Levels for Community Public Water Supply Systems				
Source: U.S. Department of Health, Centers for Disease Control, Engineering and Administrative Recommendations for Water Fluoridation, 1995.				
Annual Average of Maximum Daily Air Temperatures		**Recommended Fluoride Concentrations (mg/L)**	**Recommended Control Range (mg/L) 0.1-0.5**	
F.	C.		Subtract 0.1	Add 0.5
50.0-53.7	10.0-12.0	1.2	1.1	1.7
53.8-58.3	12.1-14.6	1.1	1.0	1.6
58.4-63.8	14.7-17.7	1.0	0.9	1.5
63.9-70.6	17.8-21.4	0.9	0.8	1.4
70.7-79.2	21.5-26.2	0.8	0.7	1.3
79.3-90.5	26.3-32.5	0.7	0.6	1.2

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Table 3: Recommended Maintenance Plan		
Source: U.S. Department of Health, Centers for Disease Control, Water Fluoridation: A Manual for Water Plant Operators, April 1994, p.88.		
Equipment	**Maintenance Work**	**Time**
Metering Pump	1. Disassemble pump and replace worn parts	1. Once a year.
	2. Change gear oil (except electronic). Keep spare parts on hand for liquid ends.	2. After first 2 to 4 weeks, then every 6 months.
Saturator	1. Drain, disassemble, and clean. Remove and reuse saturated sodium fluoride.	1. Annually (or more often with heavy use)
	2. Disassemble and clean precipitates from foot valve or suction strainer, discharge and injection lines, injection nozzle.	2. Every 6 months. Do more often if plugging becomes a problem.
	3. Disassemble and replace worn parts of the siphon breaker.	3. Every 6 months
Anti-Siphon	1. Disassemble and replace worn parts.	1. Annually
Injection Nozzle	1. Disassemble and clean	1. Annually

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CHAPTER 7
GTB Department of Public Works - Fire Hydrants

§ 701. General. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

This chapter shall provide the minimum requirements for the routine inspection, testing, and maintenance of private fire service mains and their appurtenances shall be used to determine the minimum required frequencies for inspection, testing, and maintenance.

Table 7.1: Summary of Private Fire Service Main Inspection, Testing, and Maintenance

Hose houses	Inspection	Quarterly	7.2.2.7
Hydrants (dry barrel and wall)	Inspection	Annually and after each operation	7.2.2.4
Monitor nozzles	Inspection	Semiannually	7.2.2.6
Hydrants (wet barrel)	Inspection	Annually and after each operation	7.2.2.5
Mainline strainers	Inspection	Annually and after each significant flow	7.2.2.3
Piping (exposed)	Inspection	Annually	7.2.2.1
Piping (underground)	Inspection	See 7.2.2.2	7.2.2.2
Monitor nozzles	Test	Flow annually (range and operation)	7.3.3
Hydrants	Test	Flow annually	7.3.2
Piping (exposed and underground)	Flow test	5 years	7.3.1
Mainline strainers	Maintenance	Annually and after each operation	7.4.2
Hose houses	Maintenance	Annually	7.4.5
Hydrants	Maintenance	Annually	7.4.3
Monitor nozzles	Maintenance	Annually	

§ 702. Inspection. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) General. Private fire service mains and their appurtenances shall be inspected at the intervals specified in Table 7.1.

(b) Procedures. All procedures shall be carried out in accordance with the manufacturer's instructions, where applicable.

(1) Exposed Piping.

(A) Exposed piping shall be inspected annually.

(B) Piping shall be inspected, and the necessary corrective action shall be taken as shown in Table 7.2

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Table 7.2: Exposed Piping	
Condition	**Corrective Action**
Leaks	Repair
Physical damage	Repair or replace
Corrosion	Clean or replace and coat with corrosion protection
Restraint methods	Repair or replace

(C) Piping installed in areas that are inaccessible for safety considerations due to process operations shall be inspected during each scheduled shutdown.

(2) Underground Piping. Generally, underground piping cannot be inspected on a routine basis. However, flow testing can reveal the condition of underground piping and shall be conducted in accordance with § 703.

(3) Mainline Strainers. Mainline strainers shall be inspected and cleaned after each system flow exceeding that of a nominal fifty-mm (two-inch) orifice and shall be removed and inspected annually for failing, damaged, and corroded parts with the necessary corrective action taken as shown in Table 7.3.

Table 7.3: Mainline Strainers	
Condition	**Corrective Action**
Plugging or fouling	Clean
Corrosion	Replace or repair

(4) Dry Barrel and Wall Hydrants. Dry barrel and wall hydrants shall be inspected annually and after each operation with the necessary corrective action taken as shown in Table 7.4.

Table 7.4: Dry Barrel and Wall Hydrants	
Condition	**Corrective Action**
Inaccessible	Make accessible
Barrel contains water or ice (presence of water or ice could indicate a faulty drain, a leaky hydrant valve, or high groundwater table)	Repair and drain; for high groundwater it could be necessary to plug the drain and pump out the barrel after each use
Improper drainage from barrel	Repair drain
Leaks in outlets or at top of hydrant	Repair or replace gaskets, packing, or parts as necessary
Cracks in hydrant barrel	Repair or replace
Tightness of outlets	Lubricate if necessary; tighten if necessary

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Table 7.4: Dry Barrel and Wall Hydrants	
Condition	**Corrective Action**
Worn nozzle threads	Repair or replace
Worn hydrant operating nut	Repair or replace
Availability of operating wrench	Make sure wrench is available

(5) Wet Barrel Hydrants. Wet barrel hydrants shall be inspected annually and after each operation with the necessary corrective action taken as shown in Table 7.5.

Table 7.5: Wet Barrel Hydrants	
Condition	**Corrective Action**
Inaccessible	Make accessible
Leaks in outlets or at top of hydrant	Repair or replace gaskets, packing, or parts as necessary
Cracks in hydrant barrel	Repair or replace
Tightness of outlets	Lubricate if necessary; tighten if necessary
Worn nozzle threads	Repair or replace
Worn hydrant operating nut	Repair or replace
Availability of operating wrench	Make sure wrench is available

§ 703. Testing. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Underground and Exposed Piping Flow Tests. Underground and exposed piping shall be flow tested to determine the internal condition of the piping at minimum five-year intervals.

(1) Flow tests shall be made at flows representative of those expected during a fire for the purpose of comparing the friction loss characteristics of the pipe with those expected for the particular type of pipe involved, with due consideration given to the age of the pipe and to the results of previous flow tests.

(2) Any flow test results that indicate deterioration of available water flow and pressure shall be investigated to the complete satisfaction of the authority having jurisdiction to ensure that the required flow and pressure are available for fire protection.

(3) Where underground piping supplies individual fire sprinkler, standpipe, water spray, or foam-water sprinkler systems and there are no means to conduct full flow tests, tests generating the maximum available flows shall be permitted.

(b) Hydrants. Hydrants shall be tested annually to ensure proper functioning.

(1) Each hydrant shall be opened fully and waterflowed until all foreign material has cleared.

(2) Flow shall be maintained for not less than 1 minute.

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(3) After operation, dry barrel and wall hydrants shall be observed for proper drainage from the barrel.

(4) Full drainage shall take no longer than 60 minutes.

(5) Where soil conditions or other factors are such that the hydrant barrel does not drain within 60 minutes, or where the groundwater level is above that of the hydrant drain, the hydrant drain shall be plugged and the water in the barrel shall be pumped out.

(6) Dry barrel hydrants that are located in areas subject to freezing weather and that have plugged drains shall be identified clearly as needing pumping after operation.

§ 704. Maintenance. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) General. All equipment shall be maintained in proper working condition, consistent with the manufacturer's recommendations.

(b) Mainline Strainers. Mainline strainers shall be cleaned annually and after each operation.

(c) Hydrants.

(1) Hydrants shall be lubricated annually to ensure that all stems, caps, plugs, and threads are in proper operating condition.

(2) Hydrants shall be kept free of snow, ice, or other materials and protected against mechanical damage so that free access is ensured.

§ 705. Records. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) Records under this section shall be maintained by the GTB Fire Department.

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CHAPTER 8
GTB Department of Public Works - Inter-Governmental Agreements

§ 801. Negotiations with Local Units of State Government. [History: Tribal Act #06-24.1650 enacted by Tribal Council at Special Session on April 26, 2006.]

(a) The department manager is authorized to engage in negotiations with local units of state government to enter into inter-governmental agreements under the authority of applicable tribal law and federal law.

(b) The proposed inter-governmental agreement shall be enacted by Tribal Council motion at a regularly scheduled council session and become a part of the standards and authorities under which the department operates.

(c) Effective Date. The effective date of these regulations is April 26, 2006, and supersedes all prior GTB public utility regulations.

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CHAPTER 9
Building Code

§ 901. Adoption of State Standards. [History: Tribal Act #83-121, enacted by Tribal Council on February 25, 1983; as amended by Tribal Act #01-19.1006, enacted by Tribal Council on June 20, 2001.]

The Grand Traverse Band of Ottawa and Chippewa Indians incorporates by reference and adopts as a Tribal ordinance the International Codes and specifically the version(s) published for use within the State of Michigan, as amended in the future, as well as the other standards referenced in Resolution No. 01-19.1006 enacted on June 20, 2001, with the following provisos:

(a) That the Tribe's Zoning Administrator shall administer these standards and determine that appropriate requirements are followed for all activities upon Tribal lands;

(b) That the Tribal Council shall issue any necessary licenses upon request from the Administrator showing that the appropriate requirements are satisfied; and

(c) That upon recommendation of the Administrator and for good cause shown, the Tribal Council may approve a waiver of any standard, law or regulation which might otherwise be applicable.

CROSS-REFERENCE: This provision is also contained in 14 GTBC § 602 (Public Safety and Regulation title).

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CHAPTER 10
Roads

§ 1001. Reservation Roads Placed under BIA Inventory. [History: Tribal Act #94-12.189, enacted by Tribal Council on December 20, 1994.]

All Indian Reservation Roads accessing Grand Traverse Band Tribal lands are hereby placed in the Bureau of Indian Affairs Reservation Road Need Inventory.

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CHAPTER 11
GTB Cemetery Ordinance

§ 1101. Purpose and Policy. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

Purpose. The purpose of this law is to establish the Grand Traverse Band of Ottawa and Chippewa Indians' Cemetery (hereinafter, "GTB," "Grand Traverse Band," "Tribe") on the GTB Reservation and to govern the sale of burial plots, burial eligibility, and the maintenance of the grounds within the Cemetery.

Policy. It is the policy of the Grand Traverse Band Tribe that all enrolled Tribal members, their spouses, their parents and their children may be buried in the Grand Traverse Band Tribal Cemetery.

§ 1102. Adoption, Amendment, Repeal. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) This law was recommended by the Grand Traverse Band Burial Committee and adopted by Tribal Council Resolution No. 11-29.2295 on February 15, 2012.

(b) This law may be amended by Tribal Council, pursuant to the procedures set forth in the Grand Traverse Band Legislative Procedures Act, 1 GTBC §§ 104 — 107.

(c) Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law, is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

(d) This law is adopted under authority of the Constitution of the Grand Traverse Band.

§ 1103. Definitions. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(1) CHILDREN — The natural, step and adopted children of an enrolled Tribal member, or children of a common law marriage where that marriage took place in a jurisdiction which recognizes common law marriages where at least one spouse is an enrolled Tribal member.

(2) FAMILY — A Tribal member's parents, spouse or children.

(3) SPOUSE — The husband or wife of a Tribal member. For purposes of this law, this definition shall include a common law husband or wife of a Tribal member where that marriage took place in a jurisdiction which recognizes common law marriages.

(4) TRIBE OR TRIBAL — The Grand Traverse Band Tribe of Ottawa and Chippewa Indians of Michigan.

(5) VANDALISM — The willful and unauthorized destruction or defacing of any land, monument, flush marker, tree, shrub, plant, building or other natural or artificial structure on Cemetery grounds.

(6) DIVISION II — The Grand Traverse Band Governmental Division that manages Membership and Maintenance Departments.

(7) LAND AND ROADS OFFICE — The Grand Traverse Band governmental office that manages

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all land and tribal land parcel assignments and leases.

(8) "Burial Committee" means the committee authorized by the Tribal Council to work on the development of Tribal Cemetery ordinances and to act on behalf of the Tribe to coordinate Tribal Cemetery designations on Tribal properties.

§ 1104. Tribal Cemetery. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) The Grand Traverse Band Tribal Council shall designate a parcel(s) of land(s) as deemed necessary to be used for the Cemetery.

(b) Eligibility for burial in Cemetery. Tribal members and their non-Grand Traverse Band spouses, parents and children may be buried in the Cemetery.

(c) Repatriated remains. Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act ("NAGPRA"), P.L., 101-6011, 25 U.S.C. 301 et seq., 104 Stat. 3048. All human remains returned to the Tribe shall be the responsibility of Eyaawing Museum, pursuant to authorization by Tribal Council motion of October 27, 2010 at a Tribal Council special session meeting.

(d) Eligibility for plot lease assignment. The following persons may be eligible for lease assignment burial plots:

(1) Individual Tribal members.

(2) Spouses and children of Tribal members.

(e) Rights of lease assignment of burial plots. Rights of lease assignment burial plots may only be willed to family members. In the event that a plot is inherited by an individual who is not a family member as defined in § 103(a)(3), pursuant to Tribal Council action, the plot shall be resold to Division II.

(f) Cost of lease assigned plots. All fees shall be paid prior to burial. The proceeds of burial plot sales shall be used for the operating expenses, care and improvement of the Cemetery and avenues leading thereto. The price of lease assigned plots and services are as follows:

(1) One "no cost" plot is available to each Grand Traverse Band member, however those Tribal members that are requesting a reservation of plots greater than "one" shall have to pay a refundable $25 fee for each additional plot reservation.

(2) $100 per plot fee for a family member that is related to a Grand Traverse Band member that is not a Tribal member.

(3) Plot opening, closing, and marking fees are subject to change and will be assessed at the time of burial.

(g) Reassignment of leased plots. Plots may only be reassigned to GTB through the Land and Roads Office. Plots reassigned to the Lands and Roads Office shall be leased/reassigned at the original selling price.

§ 1105. Division II. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) Administration and authority. The Division II, in conjunction with the Land and Roads Office, shall be responsible for carrying out the provisions of this law and may enter into agreements with

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person(s) or entities, where needed, in order to carry out their responsibilities under this law.

(b) Duties and responsibilities. The Division II, with the Land and Roads Office, shall:

(1) Meet with the kin or other interested party of a person permitted to be buried pursuant to this law whenever a plot or burial is requested.

(2) Be responsible for maintaining vital statistics of the deceased and reporting such information as may be required by GTB.

(3) Establish regulations to control and beautify the Cemetery, working with the Burial Committee.

(4) Be responsible for the maintenance of the Cemetery, including the improvement, safeguard and beautification of the grounds.

(5) Cause portions of land designed for Cemetery use to be surveyed and mapped into burial plots, drives and walks. Said recorded map shall be kept and maintained in the Land and Roads Office. No such plot or map shall be recorded unless laid out and plotted to the satisfaction of the Division II.

(6) Work with appropriate consultants and contractors for the implementation of the Tribal Cemetery Ordinance.

(c) Conveyance. Upon approval by Tribal Council, the Division II may sell and convey plotted burial plots, expressly restricting the use to burials and upon such other terms, conditions and restrictions as the Division II directs.

§ 1106. Burial Requirements. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) All burial orders must be presented to the Division II at least 24 hours before burial. A cement liner or vault is not required for the burial site; however, if a cement liner or vault is purchased, the vault company is required to deliver and install it in the designated burial site. The Division II does not provide pall bearers. Due to weather conditions, it may be necessary to postpone burial side services and/or burial of the deceased temporarily. The final decision to postpone burial side services shall be made by the Division II or their designee.

(b) Burial of urns. Each burial site may be used for a maximum of four urns containing ashes of the deceased. All urns or other receptacles used for permanent burial must be of a durable or lasting material. Each additional opening of the plot will require a plot opening, closing, and marking fee.

(c) Funeral processions. The Division II shall be responsible for providing funeral directors with the necessary information so that funeral processions on Cemetery grounds are carried out in accordance with the provisions of this law.

§ 1107. Maintenance of Burial Sites. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) Monuments/Flush Markers. Monuments and flush markers shall meet the following requirements:

(1) Maximum monument height is 36 inches from ground up, including base.

(2) Minimum monument height is 24 inches.

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(3) Maximum width of monument/flush marker is the width of the plot.

(4) Thickness of the monument/flush marker is not to exceed 16 inches.

(5) Face of the monument must face in the direction of the deceased's burial site.

(6) No permanent monument that is susceptible to disintegration or corrosion will be permanently permitted, except for Spirit Houses.

(7) Monuments that are susceptible to disintegration or corrosion are temporarily permitted between the months of May 1st through October 31.

(b) Plants. The planting of plants on or around burial sites shall comply with the following requirements:

(1) Plants shall not be planted behind a monument.

(2) By December 1st of each year, all burial pots and baskets, excluding artificial, will be removed by the Division II or its designee.

(3) Plants that exceed burial and/or plot dimensions shall be removed by the Division II or its designee.

(4) The planting of vegetables at a burial site is prohibited.

(5) The use of glass containers at a burial site is prohibited.

(6) Use of individual water systems is prohibited.

(7) All flowers, plants and their containers shall be removed from individual burials and plots by the family when such flowers and plants and their containers have become unsightly and unattractive.

(8) All winter baskets shall be removed on or before April 1st of each year.

(9) Plants interfering with the maintenance of the Cemetery shall be removed.

(10) Donations may be accepted for the planting of trees, provided the location and purpose shall be for the improvement of the Cemetery as a whole as determined by Division II.

(c) Flags and banners. Flags or banners shall be removed by Division II or its designee when such flags or banners become unsightly, are flown in a disrespectful manner or could reasonably incite violence, racial hatred or community unrest.

§ 1108. Prohibited Behavior on Cemetery Grounds. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

(a) The following shall be prohibited on Cemetery Grounds:

(1) Travel off the roadways in a private vehicle.

(2) Motorized unlicensed bikes and recreational vehicles.

(3) Cats and dogs.

(4) Barbecues, ball playing, golfing and other related recreational activities.

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(5) Alcoholic beverages.

(6) Possession and use of firearms, except upon the Division II's written approval for military and memorial services.

(7) Soliciting of business.

(8) Persons on cemetery grounds after dusk, except for firekeepers and those family members who have received approval from Division II.

(9) Vandalism. Incidents of vandalism shall be reported to the appropriate law enforcement agency.

(10) Recreational jogging, running, roller skating, roller blading and bike riding.

(11) Washing of automobiles or other vehicles.

(b) Placing of fencing, curbing, enclosures, edgings, iron works, wire works, seats, posts, vigil lights and steps at individual burial sites or groups of burial sites. Nothing in this subsection shall prohibit the Division II from providing for the improvement of the cemetery as a whole by installing any of the above mentioned structures.

§ 1109. Severability. [History: Tribal Act #11-29.2295, enacted by Tribal Council February 15, 2012.]

In the event that any section or provision of this ordinance, or amendments to this ordinance, is held invalid, either by the Tribal Court or subsequent development of Tribal Constitutional standards and practices of the Tribal Council, it is the intent of the Tribal Council that the remaining sections or provisions of this ordinance, and amendments made to this ordinance, shall continue in full force and effect.

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CHAPTER 12
GTB Fiber

§ 1201. Purpose. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

The organization shall be organized and operated for the following purposes:

(a) To provide for broadband, internet, network, and telecommunications services to the Grand Traverse Band of Ottawa and Chippewa Indians and its enterprises and subsidiaries, and throughout GTB's six-county service area;

(b) To assume control of and responsibility for the development, operation, repair and maintenance of the broadband facilities and equipment, including conduit and fiber so as to keep said facilities in good operating condition, in accordance with accepted standards and practices;

(c) To serve the broadband, telecommunications, and network needs of the GTB and its economic enterprises and subsidiaries;

(d) To establish service charges sufficient to sustain the proper operation, maintenance and repair of the system, and to provide for depreciation, and contingencies; and

(e) To collect such service charges from individuals, businesses, concerns and establishments and any other entities served by the system.

§ 1202. Definitions. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

(a) "Broadband" means high-speed, switched telecommunications technology that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.

(b) "Commercial" means any building or facility which is not governmental or residential.

(c) "Council" means the governing body of the Grand Traverse Band Tribal Council.

(d) "GTB Department of Public Works" or "Department" is the governmental entity that has been set up and is authorized to operate and maintain the community facilities and to provide utility services as directed by the Tribe.

(e) "GTB or Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(f) "GTB Fiber" is the organization established within the Department of Public Works that is authorized to develop, operate, and maintain broadband, fiber, and network infrastructure.

(g) "Permit" means any federal, state, tribal, or local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, resolution, or statute with respect to a project.

(h) "Persons" means an individual, firm, partnership, association, organization, corporation, or other legal entity.

(i) "Project" means the construction or deployment of wireline or wireless communications facilities to provide communications services.

(j) "Telecommunications" means the transmission of data, information, or communication by wire, cable, radio, optical, or electromagnetic systems.

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§ 1203. Organization. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

(a) The affairs of the GTB Fiber shall be managed by the Broadband Director. The Broadband Director reports to the Public Works Department Manager.

(b) The Broadband Director shall have the authority to exercise any and all powers delegated to the utility by this ordinance or any amendments thereto.

(c) The Broadband Director will serve as the single point of contact in the area of broadband for state authorities including the Michigan Department of Transportation and the Michigan Licensing and Regulatory Affairs, county road commissions, townships and other municipalities, GTB and its subsidiaries, commercial subscribers, and interested parties.

(d) Notwithstanding the organization's operation within the GTB Department of Public Works, the Broadband Director and support staff may be employees of the Economic Development Corporation.

§ 1204. Powers. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

The Council, Tribal Manager, or Executive Assistant has the authority to enter into agreements, contracts, and understandings with any governmental agency, federal, state, or local or with any person, partnership, or corporation.

(a) To purchase insurance for any property or against any risk or hazard.

(b) To establish and maintain such bank or financial accounts as may be necessary and convenient. All financial accounts shall be fully covered by F.D.I.C.

(c) To levy and collect reasonable fees for utilities and services, including but not limited to monthly service charges, connection fees, penalties, and other assessments deemed necessary by the Broadband Director and approved by the Council.

(d) To fulfill notification system responsibilities and duties related to the location of underground utilities, and to comply with the requirements of the MISS DIG underground facility damage prevention and safety act, PA 174 of 2013, MCL 460.721 et seq.

(e) To issue bills and collect payment for broadband, network, or internet service from each individual, concern, or establishment served by the tribally owned facilities, and to maintain records of the income, disbursements, and expense of the operation of the systems.

(f) To apply for and secure permits necessary for the development, expansion, maintenance and operation of GTB's fiber and related internet service facilities.

(g) The Tribal Administration shall employ personnel to operate the broadband facilities, establish the duties and compensation of employees, and to pay this compensation as an operating expense of the broadband systems.

(h) To solicit and receive assistance from the GTB accounting department for the disbursement of monies for payment of existing and future operation and maintenance expenses of the community broadband systems from the broadband program account or any substitute account designated by the Tribal Council.

(i) To prepare public notice of charge for broadband and internet service to set the date for such charges to begin, and to send this notice to each individual, concern, or establishment served by the broadband systems.

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(j) To pay charges, fees, and taxes imposed under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48 ("METRO Act"[11]), as amended, and similar statute or ordinance governing access and usage of the public right-of-way for a telecommunications system.

(k) To promulgate regulations to implement the authority of this ordinance.

§ 1205. Operation and Maintenance. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

(a) Administration.

(1) Responsibility for operation and maintenance of the fiber broadband systems shall be vested solely in the GTB Fiber, including the responsibility of making necessary inspections and performing routine maintenance.

(2) The GTB Fiber shall collect, retain and disburse all charges and fees in accordance with the schedule of charges and fees established. Such schedule of fees and charges may be amended or altered by the Department in the manner provided, but such schedule and the amendments thereto shall have no force nor effect until duly posted as provided. Such schedules shall be approved by the Tribal Council of the Grand Traverse Band Reservation.

§ 1206. Place of Business. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

GTB Fiber will maintain an office in Peshawbestown, Michigan. Its address will be:

Grand Traverse Band of Ottawa and Chippewa Indians
ATTN: Director of Fiber
2605 N. West Bayshore Drive
Peshawbestown, MI 49682

§ 1207. Rate Structure. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

The rate structure and fee schedules shall be determined based on the actual costs of operation and maintenance for the system. All rates and fee changes must be approved by the GTB Tribal Manager. The fee schedules are available at the Department's office in Peshawbestown.

§ 1208. Bookkeeping and Handling of Funds. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

(a) The Department will follow normal Tribal procedures for bookkeeping and banking. This will allow convenient handling of funds through the same bank of the Tribe, while also providing separate accounting of the GTB Fiber's funds.

(b) Actual handling of the Department's funds will be handled by the GTB Accounting Department.

(c) All accounts and ledgers of the Department shall be available for audit at any time by the Tribal Auditor or auditor of the Tribe's choice.

§ 1209. Savings Clause. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

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11. Editor's Note: See the Metropolitan Extension Telecommunications Rights-of-way Oversight Act, MCL 484.3101 et seq.

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(a) Conflict of Ordinances or Regulations; Effect of Partial Invalidity. In any case where a provision of this ordinance or regulations promulgated thereunder is found to be in conflict with a provision of any zoning, building, fire safety, or health ordinance, code or resolution, existing on the effective date of these regulations, the provision establishing the higher standard for the promotion and protection of the health and safety of the people will prevail.

(b) If any chapter, subchapter, paragraph, sentence, clause, or phrase of these regulations shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and, to this end, the provisions of these regulations are hereby declared to be severable.

§ 1210. Immunity Not Waived. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

Nothing in this ordinance shall be construed to waive the sovereign immunity of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 1211. Amendments or Revisions. [History: Tribal motion, enacted by Tribal Council November 29, 2017]

The Plan of Operation may be amended by a simple majority vote of the GTB Tribal Council as provided by law.

§ 1212. Effective Date. [History: Tribal motion, enacted by Tribal Council November 29, 2017.]

This ordinance is effective immediately upon approval by the GTB Tribal Council.

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Title 13

HOUSING & PROPERTY

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Chapter 1
(Reserved)

[History: Former 13 GTBC Chapter 1, Grand Traverse Band Housing Authority, Derived From Tribal Act #94-12.161, Enacted By Tribal Council On September 27, 1994; Amended By Tribal Act #97-15.473, Enacted By Tribal Council On June 17, 1997; Was Repealed By Tribal Act #01-19.966, Enacted By Tribal Council On April 18, 2001.]

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Chapter 2
Residential Lot Assignment/Lease

§ 201. Title and Applicability. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

(a) This ordinance shall be known as the Residential Lot Assignment/Lease Ordinance ("lot assignment ordinance") of the Grand Traverse Band of Ottawa and Chippewa Indians.

(b) This ordinance governs all lot assignments and leases to individuals upon tribal lands, pursuant to the authority provided the Tribal Council by Article XI, Section 1(b)&(c) of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 202. Definitions. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

(a) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians; "Tribal Council" means the Tribe's governing body; and "Lot Committee" means the committee appointed by the Tribal Council to assist in the administration of residential lot assignments/leases.

(b) "Tribal Court" means the Tribal Judiciary of the Grand Traverse Band of Ottawa and Chippewa Indians.

(c) "Tribal lands" means real property owned (or leased) by the Tribe or the United States of America in trust for the Tribe including lands acquired after this ordinance is enacted.

(d) "Lot assignment" means the assignment granted to an individual tribal member of a specific lot upon tribal lands for residential use.

(e) "Lease" or "BIA lease" means a residential lease for a lot upon tribal lands entered into between the Tribe and an individual tribal member on the form approved by the Bureau of Indian Affairs, United States Department of the Interior (Form 5-5461 or its successor), pursuant to regulations prescribed at 25 CFR Part 162 as amended or succeeded; this term also includes the lease forms utilized for mortgage guaranty programs administered by the Rural Housing Service of the United States Department of Agriculture and the United States Department of Housing and Urban Development.

(f) "Previous assignments" Assignments and/or leases to individual Indians of specific lots for residential use made between 1944 and the date of enactment of this ordinance by the Leelanau County Department of Social Services, Leelanau Indians, Inc. (the Tribe's governing body between 1978-1980), and/or the Tribe's current governing body, the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.

(g) "Member" means an individual enrolled as a member of the Tribe.

(h) "Lot" refers to a designated parcel of real estate upon tribal lands.

(i) "Lot holder" means the individual assigned or leased a specific lot upon tribal lands.

(j) "Transfer" means Legal assignment of lot assignment/leasehold interest from lot holder to another enrolled member of the Tribe.

(k) "Testamentary designation" means designation in a lot holder's will that his/her lot assignment/ leasehold interest shall be inherited by another enrolled member of the Tribe.

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(l) "Splitting" means Dividing a lot into subparcels to accommodate additional residence(s).

(m) "Sublease" means Temporary authorization by a lot holder to another tribal member of the right to occupy residential premises upon an assigned lot.

(n) "Zoning ordinance" means the zoning ordinance of the Grand Traverse Band of Ottawa and Chippewa Indians or other zoning regulations enforced by the Tribe.

(o) "Zoning administrator" means the person designated by the Tribe to administer the Zoning Ordinance.

§ 203. Policy Regarding Homestead Purposes. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

Because of its limited land base, the Tribe's policy is that all lot assignments and residential leases are intended for homestead purposes.

§ 204. Option to Choose Lot Assignment or BIA Lease. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; as amended by Tribal Council on July 2, 1996; and amended by Tribal Act #08-26.1905, adopted by Tribal Council on April 30, 2008.]

(a) Lot assignments upon federal trust lands cannot be encumbered. Therefore, if any lot holder desires to encumber his/her lot assignment upon federal trust lands to participate in a loan guaranty program in order to obtain financing to construct a residence, such individual may choose to request the Tribal Council to enter into a Residential Lease upon the form required by the Rural Housing Service, the United States Department of Housing and Urban Development and/or approved by the Bureau of Indian Affairs, United States Department of the Interior (Form 5-5461 or its successor).

(b) Lot holders desiring to participate in any loan program in an effort to obtain financing to construct a residence upon federal trust lands cannot use the value of the trust property, which by definition is owned by the United States in trust for the tribe and cannot be sold, pledged, mortgaged, or otherwise encumbered without an Act of Congress, in the appraisal process that is typically used by banks or other real estate agents.

§ 205. Eligibility for Lot Assignment/Lease. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

Applicants requesting a lot assignment or BIA lease must be enrolled members of the Tribe who intend to use the lot for their primary residence.

§ 206. Procedure for Applying for Lot Assignment/Lease. [History: Residential Lot Assignment/ Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

An applicant requesting a lot assignment or BIA lease should submit a request for a specific lot in writing to the Lot Committee or Tribal Land Records Office. The written request should be on a form obtained from the Tribal Land Records Office entitled "Request for Lot Assignment or Lease." The request should include information specified in § 207.

§ 207. Criteria Governing Selection. [History: Residential Lot Assignment/Lease Ordinance,

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adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

The following criteria shall be considered in determining which applicant(s) to select for available lots:

(a) Whether applicant intends to utilize lot for primary residence;

(b) Applicant's demonstrated ability to arrange necessary financing to construct a residence meeting standards specified in the Tribe's zoning ordinance and applicable construction codes;

(c) Governmental service, employment or other factors requiring applicant to live within proximity of tribal lands; and

(d) Other factors deemed relevant by the Tribal Council, Lot Committee or applicant.

§ 208. Approval of Lot Assignments/Leases. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

Approval of lot assignments/leases shall be made by action of the Tribal Council, and lot assignments/ leases shall be certified upon a form entitled Approval of Lot Assignment/Lease. A lot holder must execute the Acceptance of Lot Assignment or Lease form within 30 days of the Tribal Council approval or the assignment/lease.

§ 209. Conditions Applicable to Lot Assignments/Leases. [History: Residential Lot Assignment/ Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

(a) Lot assignments/leases shall be considered void if the lot holder and any successor(s) in interest do not occupy the premises or begin construction of a residence within two years of the date of the assignment or lease; this period may only be extended for one year by motion of the Tribal Council if the lot holder submits information in writing demonstrating the likelihood that a residence will be constructed within another year. If the Tribal Council determines the lot assignment/lease to be void, the Tribal Council shall have discretion either to declare the lot assignment void and designate a successor, or to request the Tribal Court to exercise equitable jurisdiction to designate a successor. Provided, that this provision is not applicable to mortgages recorded with the Tribal Court pursuant to the terms of the Tribe's Leasehold Mortgage Ordinance.

(b) The lot holder and any successor(s) in interest must comply with this ordinance, the Tribe's zoning ordinance and other applicable land use regulations or the lot assignment/lease is voidable, and no construction activity may commence without required permits issued by the Tribe's Zoning Administrator. Provided, that leases encumbered by mortgages recorded with the Tribal Court are not voidable by the Tribal Council.

(c) Subleases are permitted only if the sublessee is an enrolled member of the Tribe and utilizes the premises for his/her primary residence. However, any subleases must be in writing and approved by the Tribal Council in order to be effective.

(d) If a residence upon a lot assignment is vacated without an approved sublease for a period longer than one year, the Tribal Council shall have discretion either to declare the lot assignment void and designate a successor, or to request the Tribal Court to exercise equitable jurisdiction to designate a successor. Provided, that leases encumbered by mortgages recorded with the Tribal Court are not

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voidable by the Tribal Council.

(e) Any structure or other improvements capable of being removed from the premises shall be considered the property of the former lot holder if the lot assignment or lease terminates; however, such property reverts to tribal ownership if it is not removed within six months from the termination of the lot assignment/lease.

(f) The Tribe's policy designating lot assignments and residential leases for homestead purposes prohibits lot holders from being assigned or leased more than one lot, with the exception of previous assignments that combined lots designated on the Plat of the Village of Peshawbestown or partial lots not suitable for separate residences. Nonetheless, if a lot holder inherits or receives an additional lot by transfer, he/she has six months (or until the conclusion of probate proceedings) in which to transfer such lot to another tribal member before any additional lot assignment/lease shall be considered void. Furthermore, a lot holder may serve as guardian and/or conservator of another lot during the period of that lot holder's legal incapacity. Provided, that leases encumbered by mortgages recorded with the Tribal Court shall continue to be encumbered in the event that they revert to the Tribe, and any successors designated by the Tribal Council or Tribal Court shall be required to assume the terms and conditions of the mortgage.

(g) Lot holders/lessees may not harvest timber or extract any natural resources with the exception of clearing necessary for construction of residential premises and related activities as authorized by land use permit issued by the Tribe's Zoning Administrator.

(h) Previous and future lot assignments or leases for residential purposes do not guarantee the right of occupancy if the Tribe's Zoning Administrator (or Tribal Council acting as the Zoning Board of Appeals) determines not to issue land use and/or construction permits because of environmental concerns, space limitations or other conflicts with the Tribe's zoning ordinance or other land use regulations.

§ 210. Policy Regarding Previous Assignments. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

The Tribe's policy is to honor all previous assignments regardless whether the grantor had legal authority at the time to make the purported assignment, subject to the following qualifications:

(a) The lot holder must be an enrolled member of the Tribe or a Native American formerly enrolled and/or eligible for enrollment;

(b) With respect to a previous assignment held by a non-member (or current assignment approved in exchange for previous assignment), such assignment may not be conveyed to another non-member; a lifetime transfer or testamentary designation shall be void unless conveyed to an enrolled member of the Tribe; and

(c) Previous assignments of vacant parcels shall be void if residential premises are not constructed and occupied within two years of the date of enactment of this ordinance; this period may only be extended for one year by motion of the Tribal Council if the lot holder submits information in writing demonstrating the likelihood that a residence will be constructed within another year.

§ 211. Transfers and Testamentary Designations. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

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(a) The lot holder of a lot assignment may transfer his/her property interest to a specified family member, heir or another tribal member either by testamentary designation or transfer during lifetime on a form entitled "Transfer of Lot Assignment." The Tribal Council must approve the transfer and the new lot holder must execute the acceptance form as specified in § 208 in order to be effective.

(b) Transfers and testamentary designations shall be void unless conveyed to enrolled members of the Tribe.

(c) The lot holder may reserve a life estate for himself/herself when transferring his/her interest.

(d) The lot holder may reserve a life estate for his/her spouse when making a testamentary designation or transferring his/her interest to an enrolled member.

(e) Monetary consideration need not be made for transfers; but if consideration is involved, it must be limited to a reasonable value for improvements. Consideration may not be based upon value of the land.

(f) If the lot holder dies without transferring the lot assignment or executing a testamentary designation, the lot assignment shall revert to the Tribe.

(g) If an assigned lot does not contain a residence qualifying for an occupancy permit in the judgment of the Tribe's Zoning Administrator, the lot may not be transferred more than once. (The purpose of this provision is to prevent the policy stated in §§ 203 and 209 from being thwarted by successive transfers having the effect of extending the two-year period for occupying the premises or constructing a residence.)

§ 212. Procedure for Requesting Splitting of Lot. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

The following procedures govern situations in which lot holders desire to obtain Tribal Council approval for splitting a lot:

(a) Lot holders must demonstrate that the Tribe's zoning ordinance allows the specific lot to be split; therefore lot holders must provide information and/or documents required by the Tribe's Zoning Administrator to make this determination, including a survey, if necessary, as well as a drawing showing the proposed split and locations of existing and proposed residence(s) upon the lot and adjacent lots with wells and septic/drain field systems identified;

(b) Lot holders requesting the splitting of a lot are responsible for obtaining and providing any surveys or legal documents deemed necessary by the Tribe's Zoning Administrator, such as easements of ingress and egress; and

(c) Before the Tribe's Zoning Administrator may issue land use and/or building permits authorizing construction upon a new lot created by the splitting of a lot, the Tribal Council must by motion approve the proposed splitting of a lot and the forms specified in § 208 must be executed.

§ 213. Eviction Procedures for Financed Construction. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

The eviction procedures utilized by the Tribe's Housing Authority and/or specified in the Tribal Code of the Grand Traverse Band of Ottawa and Chippewa Indians are applicable to those lots upon which the

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lot holder has constructed or improved a residence utilizing financing obtained from lending institutions and/or governmental programs. The eviction procedures specified in Part 2 of the Leasehold Mortgage Ordinance (13 GTBC § 309 et seq.) are applicable to those lots (and corresponding residential leases) upon which the lot holder has constructed or improved a residence utilizing financing obtained from lending institutions and/or governmental programs.

§ 214. Tribal Court Jurisdiction. [History: Residential Lot Assignment/Lease Ordinance, adopted by Tribal Council on November 17, 1990; and as amended by Tribal Council on July 2, 1996.]

The Tribal Court shall have exclusive jurisdiction to resolve disputes concerning lots assigned for residential purposes upon tribal lands and all related matters.

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Chapter 3
Leasehold Mortgages

PART 1
Leasehold Mortgaging of Tribal Trust Lands

§ 301. Purpose. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996; amended by Tribal Act #01-19.1065, enacted by Tribal Council in Special Session on October 10, 2001; and amended by Tribal Act #08-26.1905, enacted by Tribal Council on April 30, 2008.]

(a) The purpose of this ordinance is to assist Tribal members in obtaining mortgage financing for the purchase of one-family, owner-occupied principal residences on certain leasehold estates located upon Tribal trust lands, by prescribing procedures relating to recordation, foreclosure and evictions in connection with leasehold mortgages given to secure loans made by mortgagees pursuant to: the Section 184 Housing Loan Guarantee Program administered by the U.S. Department of Housing and Urban Development (HUD); the direct loan program administered by the U.S. Department of Veterans' Affairs (VA) under 38 U.S.C. § 3761; the similar program administered by the Rural Economic and Community Development Service of the U.S. Department of Agriculture; the Native American Housing Pilot Initiative (the "Initiative") offered by the Federal National Mortgage Association ("Fannie Mae"); financing offered by the Federal Home Loan Mortgage Corporation ("Freddie Mac"); and/or other conventional lending programs. In order to facilitate the purpose of these programs, this ordinance authorizes a limited waiver of sovereign immunity by the Tribe with respect to all controversies or claims arising out of, or relating to, the leasehold mortgage agreements and the leases described herein.

(b) In addition, Tribal members, in seeking mortgage financing for the purchase of one-family, owner-occupied principal residences on certain leasehold estates located upon Tribal trust lands, cannot use the value of the trust property, which by definition is owned by the United States in trust for the tribe and cannot be sold, pledged, mortgaged, or otherwise encumbered without an Act of Congress, in the appraisal process that is typically used by banks or other real estate agents.

§ 302. Definitions. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) "Lease" shall mean the residential ground lease or other agreement for use of Tribal trust land on which a leasehold mortgage has or will be given.

(b) "Leasehold Estate" shall mean a leasehold estate established pursuant to a lease between the Tribe, as lessor, and a member of the Tribe, as tenant.

(c) "Leasehold Mortgage" shall mean the first-lien mortgage of a leasehold estate given to secure a mortgage loan made by a mortgage pursuant to the HUD 184 program, the VA and RECD programs, and/or Fannie Mae's Initiative.

(d) "Leasehold Mortgage Foreclosure Proceeding" shall mean a proceeding in the Tribal Court (i) to foreclose the interest of the mortgagor(s), and each person or entity claiming through the mortgagor(s), in a leasehold estate on which a leasehold mortgage has been made by the mortgage pursuant to the HUD 184 program, the VA and RECD programs, and/or Fannie Mae's Initiative; and/or (ii) to assign such leasehold estate to the mortgagee or the mortgagee's successors or assigns.

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(e) "Lessor" shall mean the Tribe. The Tribe shall be the beneficial or equitable owner of certain Tribal trust land underlying a leasehold estate on which a leasehold mortgage has been given. The lessor shall include the successor(s) or assign(s) of such lessor.

(f) "Leasehold Mortgage Agreement" shall mean that certain agreement indicating participation by the mortgagor(s) in one of the federal mortgage loan guarantee programs to the mortgagee and the Tribe, and approved by the Secretary of the Interior.

(g) "Mortgagor" shall mean any member of the Tribe who has executed a leasehold mortgage, including any heir(s), successor(s), executor(s), administrator(s) or assign(s) of such member.

(h) "Mortgagee" shall mean the approved lender under any leasehold mortgage made pursuant to the leasehold mortgage agreement. This definition also includes, without any consent by Tribe, any subsequent holder, whether by assignment, succession or otherwise, of the original mortgagee's right, title or interest in and to the leasehold mortgage and/or the leasehold estate.

(i) "Nuisance" shall mean maintenance on the leasehold estate of a condition which:

(1) Unreasonably threatens the health or safety of the public or neighboring land users; or

(2) Unreasonably and substantially interferes with the ability of neighboring real property users to enjoy the reasonable use and occupancy of their property.

(j) "Subordinate Lienholder" shall mean the holder of any lien, including a mortgage, perfected subsequent to the recording of a leasehold mortgage under this ordinance; provided, however, such terms shall not include the Tribe with respect to a claim for a Tribal leasehold tax.

(k) "Tenant" shall mean any person who occupies Tribal trust land under a leasehold estate.

(l) "Tribal Court" shall mean the Tribal Court of the Grand Traverse Band of Ottawa Indians.

(m) "Tribal Recording Clerk" shall mean the person designated by the Tribe to perform the recording functions required by this document or any deputy or designee of such person.

(n) "Tribe" shall mean the Grand Traverse Band of Ottawa and Chippewa Indians.

(o) "Tribal Trust Lands" shall mean land, title to which is held by the United States of America in trust for the Tribe and/or which may be subject to a restriction against alienation imposed by federal treaty, statute or Executive Order.

(p) "Unlawful Detainer Action" shall be a suit brought before the Tribal Court to terminate a tenant's interest in a leasehold estate and/or to evict any person from occupancy of such leasehold estate.

(q) "Waste" shall mean spoil or destruction of land, buildings, gardens, trees or other improvements on the leasehold estate which result in substantial injury to the lessor's interest in the leasehold estate.

(r) "Writ of Restitution" is an order of the Tribal Court:

(1) Restoring an owner, lessor, mortgagee (or other successor in interest) to possession of a leasehold estate subject to a leasehold mortgage; and

(2) Evicting a tenant or other occupant from such property.

§ 303. Priority. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996;

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and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

A leasehold mortgage recorded in accordance with the recording procedures set forth in this ordinance shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim (except a lien or claim arising from a Tribal tax assessed against a leasehold estate subject to the leasehold mortgage).

§ 304. Recording. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) The Tribe recognizes that the appropriate offices for recording leases and leasehold mortgages is the Bureau of Indian Affairs Area Land Titles and Records Office in addition to the Tribal Court, and the Tribe agrees that the agreement shall require that the leases and leasehold mortgages shall also be recorded in the county recorder's office in the Michigan county in which the leasehold estates are located.

(b) The Tribal Recording Clerk shall maintain in the Tribal Court, or other designated office, a system for the recording of leasehold mortgages and such other documents as the Tribe may designate by law or resolution including, without limitation, the lease.

(c) The Tribal Recording Clerk shall endorse upon any lease and leasehold mortgage or other document received for recording the following:

(1) The date and time of receipt of the lease and the leasehold mortgage or other document;

(2) The filing number, to be assigned by the Tribal Recording Clerk, which shall be a unique number for each lease and leasehold mortgage or other document received; and

(3) The name of the Tribal Recording Clerk receiving the lease and leasehold mortgage or other document.

Upon completion of the above endorsements, the Tribal Recording Clerk shall make true and correct copies of the lease and leasehold mortgage or other security instrument and shall certify each copy as follows:

Grand Traverse Band of Ottawa and Chippewa Indians: ss.

I certify that this is a true and correct copy of a document received for recording. Given under my hand and seal this _____ day of _____.

(SEAL)

_____
Signature

_____
Title

The Tribal Recording Clerk shall maintain such copies in the records of the recording system and shall return the original lease and leasehold mortgage or other document to the person or entity that presented the same for recording.

(d) The Tribal Recording Clerk shall also maintain a log of each lease and leasehold mortgage or other document recorded in which there shall be entered the following:

(1) The name(s) of the mortgagor(s) of each leasehold mortgage, identified as such;

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(2) The name(s) of the mortgagee(s) of each leasehold mortgage, identified as such;

(3) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents including the lease;

(4) The date and time of receipt;

(5) The filing numbers assigned by the Tribal Recording Clerk; and

(6) The name of the Tribal Recording Clerk receiving the lease, leasehold mortgage or other document.

(e) The certified copies of the leases and leasehold mortgages and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying.

§ 305. Leasehold Mortgage Foreclosure Proceedings. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

Upon the default of the mortgagor(s), and upon expiration of any applicable cure periods under a leasehold mortgage, the mortgagee or its successors and assigns, may commence a leasehold mortgage foreclosure proceeding in the Tribal Court as follows:

(a) By filing a verified complaint:

(1) Citing authority for jurisdiction of the Tribal Court;

(2) Naming the mortgagor(s) and each record owner claiming through the mortgagor(s) subsequent to the recording of the leasehold mortgage, including each subordinate lienholder (except the Tribe with respect to a claim for a Tribal tax on the leasehold estate subject to the leasehold mortgage), as a defendant;

(3) Describing the leasehold estate subject to the leasehold mortgage;

(4) Stating the facts concerning:

(A) The execution of the lease and the leasehold mortgage;

(B) The recording of the leasehold mortgage; and

(C) The alleged default(s) of the mortgagor(s) and any other facts as may be necessary to constitute a cause of action;

(5) Having appended as exhibits true and correct copies of each promissory note, lease, leasehold mortgage, and, if applicable, assignment thereof relating to such leasehold estate;

(6) Including an allegation that all relevant requirements and conditions prescribed in the federal mortgage loan guarantee program and/or leasehold mortgage agreement and the lease have been complied with by the mortgagee or its successors or assigns; and

(7) Otherwise satisfying the requirements of the Tribal Court.

(b) By obtaining a summons, issued as in other cases, requiring the mortgagor(s) and each other person or entity claiming through the mortgagor, as defendants, to appear for a trial upon the complaint on a date and time specified in the summons, and filing a copy of such summons with the Tribal Court.

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§ 306. Service of Process and Procedures. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

The laws of the Tribe governing service of process and all other matters relating to the conduct of Tribal Court proceedings shall apply to any leasehold mortgage foreclosure proceeding pursuant to this ordinance.

§ 307. Cure of Default by Subordinate Lienholder. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) Prior to the entry of a judgment of foreclosure of a leasehold mortgage pursuant to this ordinance, any mortgagor or any subordinate lienholder may cure the default(s) under the leasehold mortgage.

(b) Any subordinate payments made by such subordinate lienholder to cure such default(s) must comply with the terms of the mortgage, plus interest on such amounts at the rate stated in the promissory note evidencing the subordinate lien.

§ 308. Power of the Tribal Court. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

If the alleged default(s) have not been cured, and if the Tribal Court should find for the mortgagee or its successors or assigns, the Tribal Court shall enter judgment:

(a) Foreclosing the leasehold estate of the mortgagor(s) and each other defendant named in the complaint upon whom proper and timely service has been made, including each such subordinate lienholder; and

(b) Assigning such leasehold estate to the mortgagee or the mortgagee's assignee, including Fannie Mae.

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PART 2
Leasehold Mortgage Eviction Procedures

§ 309. Jurisdiction. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

The provisions of this Part shall apply to all persons and property subject to the governing authority of the Tribe as established by the Constitution and other Tribal law.

§ 310. Unlawful Detainer. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

A tenant or other occupier of a leasehold estate subject to a leasehold mortgage shall be guilty of unlawful detainer if such person shall continue in occupancy of such leasehold estate under any of the following situations:

(a) Without the requirement of any notice by the lessor:

(1) After the expiration of the term of the lease;

(2) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim under a lease or title to such property;

(3) After the lessor has terminated such person's tenancy pursuant to procedures providing such person a hearing before such lessor involved; or

(4) After such person's leasehold estate has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.

(b) After having received 30 days' notice, the tenant or occupier shall remain in possession of such property contrary to the terms of the notice as follows:

(1) When such person has received notice:

(A) That he or she is in default in the payment of ground rent; and

(B) Requiring him or her to either pay such rent or surrender possession of the occupied property and such person has not either surrendered possession of such property or paid the rent within the thirty-day period provided in such notice;

(2) When such person shall continue to fail to keep or perform any condition or covenant of the lease or other use agreement under which the property is held after he or she has been given notice to comply with such condition or covenant or else to surrender the property; or

(3) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice to either cease such waste or maintenance of nuisance or to surrender the property.

§ 311. Procedures for Service of Notice. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) Notices required or authorized in the immediately preceding section shall be given in accordance with established Tribal Court rules and procedures. In the absence of such rules and procedures, notices

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shall be given in writing by either:

(1) Delivering a copy personally to the tenant or occupier or to any adult members of his or her family residing on the leasehold estate; or

(2) Posting said notice in a conspicuous place near the entrance to said leasehold estate, and by sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.

(b) Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of either of these two methods of service.

§ 312. Complaint and Summons. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

The lessor or the mortgagee (including its successors or assigns) shall commence an action for unlawful detainer by filing with the Tribal Court, in writing, the following documents:

(a) A complaint, signed by the lessor, the mortgagee (or its successors or assigns), or an agent or attorney on their behalf including the following:

(1) Citing authority for jurisdiction of the Tribal Court;

(2) Naming the mortgagor(s) and each record owner claiming through the mortgagor(s) subsequent to the recording of the leasehold mortgage, including each subordinate lienholder (except the Tribe with respect to a claim for a Tribal tax on the leasehold estate subject to the leasehold mortgage), as a defendant;

(3) Describing the leasehold estate subject to the leasehold mortgage;

(4) Stating the facts concerning:

(A) The execution of the lease and the leasehold mortgage;

(B) The recording of the leasehold mortgage; and

(C) The facts upon which he or she seeks to recover;

(5) Stating any claim for damages or compensation due from the persons to be evicted; and

(6) Otherwise satisfying the requirements of the Tribal Court.

(b) A copy of the summons, issued in accordance with established Tribal Court rules and procedures.

(1) In the absence of such rules and procedures for the issuance of a summons, the summons shall require defendants to appear for trial upon the complaint on a date and time specified in the summons.

(2) The trial date specified in the summons shall be no less than six nor more than 30 days from the date of service of the summons and complaint.

(3) The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the Court an answer and appear for trial at the time, date and place specified in the summons.

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§ 313. Service of Summons and Complaint. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Tribal Court rules for service of process in civil matters.

(b) In the absence of such Tribal Court rules, the summons and complaint shall be served by one of the two methods provided in § 311 above.

§ 314. Power of the Tribal Court. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) The Tribal Court shall enter a writ of restitution if:

(1) Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided herein; and

(2) The Tribal Court shall find that the occupier of the leasehold estate subject to the leasehold mortgage is guilty of an act of unlawful detainer.

(b) Upon issuance of a writ of restitution, the Tribal Court shall have the authority to enter against the defendants a judgment for the following:

(1) Back rent, unpaid utilities, and any charges due the Tribe or lessor under any lease or occupancy agreement;

(2) Any and all amounts secured by the leasehold mortgage that are due the mortgagee (or its successors or assigns); and

(3) Damages caused by the defendants to the property other than ordinary wear and tear. The Tribal Court shall have the authority to award costs and reasonable attorney's fees in bringing suit to the prevailing party.

§ 315. Enforcement. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

(a) Upon issuance of a writ of restitution by the Tribal Court, Tribal law enforcement officers shall enforce the writ of restitution by evicting the defendants and their property from the leasehold estate which is unlawfully occupied.

(b) In all cases involving the mortgagee (or its successors or assigns), the writ of restitution shall be enforced no later than 60 days after the date of service of the summons and complaint, subject to § 316 below.

§ 316. Continuances in Cases Involving the Mortgagee. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

Except by agreement of all parties, there shall be no continuances in cases involving the mortgagee (or its successors or assigns) which will interfere with the requirement that the writ of restitution be enforced not later than 60 days from the date of service of the summons and complaint.

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§ 317. Alternative Remedies. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; and as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996.]

In those cases in which the persons or property are subject to the jurisdiction of the courts of the State of Michigan or the United States, the remedies and procedures provided by this ordinance are in the alternative to the remedies and procedures provided by the laws of the State of Michigan or the United States.

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PART 3
Limited Waiver of Immunity

§ 318. Limited Waiver of Immunity. [History: Tribal Act #96-14.319, enacted by Tribal Council on February 20, 1996; as amended by Tribal Act #96-14.375, enacted by Tribal Council on July 2, 1996; and as amended by Tribal Act #96-14.376, enacted by Tribal Council on July 2, 1996.]

(a) The Tribe hereby authorizes a limited waiver of immunity from suit that the Tribe may enjoy with respect to any and all controversies or claims arising out of or related to the obligations of the Tribe under the leasehold mortgage agreements and the leases described herein; and in connection with such waiver, the Tribe hereby consents to the personal jurisdiction of the Tribal Court with respect to any action to enforce any obligations owed by it to any other party or to enforce any of the other party's rights and/or remedies under such leasehold mortgage agreements or leases.

(b) The authority provided herein is not intended to nor shall it be construed to waive the immunity of the Tribe for any other purpose or with respect to any claim or other matter not specifically mentioned herein, and is not intended to, nor shall it extend to the benefit of, any person other than the parties to such agreements or their successors or assigns.

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Chapter 4
FHA Insured Loan Program

§ 401. Purpose. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

The purpose of this ordinance is to assist in making available to Tribal members the benefits of the FHA Section 248 Program, under which an Indian family may purchase a home located on leased trust land on the Reservation under an FHA Insured Loan Program.

§ 402. Authority. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

This ordinance is adopted pursuant to Article IV, Section 1(h) of the Grand Traverse Band of Ottawa and Chippewa Indian Tribal Constitution. It states the authority to manage and control the economic affairs, enterprises, property, and all other interests of the Band.

§ 403. Effective Date. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

This ordinance shall take effect upon its approval by the HUD/FHA office that serves the Reservation and/or Secretary of the Interior.

§ 404. Abrogation and Greater Restriction. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

Where this ordinance imposes greater restrictions than those contained in other ordinances, the provisions of this ordinance shall govern.

§ 405. Interpretation. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

(a) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other Tribal power or authority.

(b) The Tribe's sovereign immunity is not waived or affected hereby.

§ 406. Definitions. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

As used in this ordinance:

(a) "FHA Section 248 Program" means the Federal Housing Administration (FHA) Section 248 Mortgage Insurance Program on Indian Reservations, 12 U.S.C. §§ 1715z-13.

(b) "Reservation" means the land and waters within the exterior boundaries of the Grand Traverse Band Reservation.

(c) "Court" means the Tribal Court of the Grand Traverse Band.

(d) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(e) "Trust Lands" means land held in trust for the Tribe by the United States of America.

§ 407. Evictions. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

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(a) The eviction procedures set forth by the lending agencies shall apply to evictions from homes and leased land under the FHA Section 248 Program.

(b) The Grand Traverse Band Tribal Court shall have jurisdiction in eviction procedures.

§ 408. Access to Property. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

The Tribe hereby grants its permission to agents or employees of the U.S. Department of Housing and Urban Development to enter trust land on the reservation for the purpose of carrying out their responsibilities under the FHA Section 248 Program including the serving of posting of property in case of eviction.

§ 409. Lease Form. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

Tribal trust land shall be leased for purposes of the FHA Section 248 Program using the lease form prescribed and preapproved by the Secretary of Housing and Urban Development and the Bureau of Indian Affairs, pursuant to 24 C.F.R. 203.43h(c), for use in connection with the FHA Section 248 Program.

§ 410. Foreclosure. [History: Tribal Act #92-112, enacted by Tribal Council on February 18, 1992.]

The Tribal Court shall exercise jurisdiction over foreclosures. A mortgage insured under the FHA Section 248 Program shall be and constitute the first lien in priority of the home.

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Chapter 5
Liens

§ 501. Definitions. [History: Tribal Act #88-605, enacted by Tribal Council on January 20, 1988.]

(a) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians, as well as subordinate authorities and boards chartered by the Tribe for the purpose of fulfilling specified governmental functions.

(b) "Tribal Court" means the Tribal Judiciary of the Grand Traverse Band of Ottawa and Chippewa Indians.

(c) "Tribal Lands" means the Tribe's proclaimed reservation as well as all other lands owned by the United States in trust for the Tribe.

(d) "Person" means a natural person, firm, association, corporation or other legal entity.

(e) "Judgment Debtor" means a person whose debt to the Tribe has been reduced to judgment by a court of competent jurisdiction.

(f) "Contract Debtor" means a person whose debt to the Tribe is set forth in a written agreement.

§ 502. Jurisdiction. [History: Tribal Act #88-605, enacted by Tribal Council on January 20, 1988.]

The Tribe asserts jurisdiction over all contracts and related matters arising upon Tribal lands involving treaty/trust resources, governmental functions, or economic development enterprises.

§ 503. Applicability. [History: Tribal Act #88-605, enacted by Tribal Council on January 20, 1988.]

This ordinance shall apply to all debts to the Tribe which either have been reduced to judgment or arise from written contracts clearly stating when payment(s) are due.

§ 504. General Provisions. [History: Tribal Act #88-605, enacted by Tribal Council on January 20, 1988.]

(a) Judgment Debts. If any court of competent jurisdiction has granted judgment for the Tribe, the Tribe may attach personal property located upon Tribal lands owned by the judgment debtor or a related business entity as a means of enforcing the judgment.

(b) Contractual Obligations. If any written agreement sets forth the deadline(s) for payment(s) to the Tribe and if such contractual obligation(s) are past due to the Tribe, the Tribe may attach personal property located upon Tribal lands owned by the obligor or a related business entity as a means of securing payment.

§ 505. Procedure. [History: Tribal Act #88-605, enacted by Tribal Council on January 20, 1988.]

(a) Upon receipt of a petition requesting a lien signed by the Tribe's manager, a program director or enterprise manager, the Tribal Council/Court by temporary order entered without notice may direct the Tribe's Law Enforcement Officer(s) to attach a lien against personal property located upon Tribal lands which is owned by judgment or contractor debtor(s) or related business entities.

(b) Within two weeks from the date the Tribe attaches a lien against personal property, the Tribal Court

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shall hold a preliminary hearing to determine whether sufficient basis exists to continue holding the attached personal property pending trial on the merits.

(c) Within 60 days of the preliminary hearing, the Tribal Court shall hold a trial to determine the propriety of the lien and value of the attached personal property (in order to determine the amount by which the judgment or contractual obligation shall be reduced/eliminated). If the Tribal Court determines that the alleged debt is actually owed to the Tribe and if the value of the attached property exceeds the amount of the debt, the Tribal Court may either effectuate an equitable settlement with the parties' consent or condemn the property and order the Tribe to provide partial restitution.

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Chapter 6
Zoning

§ 601. Adoption of Leelanau County Zoning Ordinance. [History: Tribal Act #83-119, enacted by Tribal Council on February 25, 1983.]

(a) The Grand Traverse Band of Ottawa and Chippewa Indians incorporates by reference and adopts as a Tribal ordinance the Leelanau County Zoning Ordinance previously applicable to Tribal lands, with the following provisos:

(1) The Tribal Council shall designate an individual to serve as Zoning Administrator;

(2) The Tribal Council shall serve as the Zoning Board of Appeals and in this capacity shall be the final arbiter of all determinations under the ordinance; and

(3) Upon recommendation of the Zoning Administrator and for good cause shown, the Tribal Council may approve a waiver of any provision of the ordinance.

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Chapter 7
Lease Assignment From Leelanau Indians Incorporated; Relinquishment

§ 701. Acceptance of Lease Assignment. [History: Tribal Act #82-057, enacted by Tribal Council on March 27, 1982.]

The Grand Traverse Band of Ottawa and Chippewa Indians hereby accepts the assignment of Leelanau Indians Incorporated's Ninety-Nine-Year Lease Agreement with the County of Leelanau, and agrees to assume and perform all duties, obligations and responsibilities therein continued.

§ 702. Compliance with Conditions. [History: Tribal Act #82-057, enacted by Tribal Council on March 27, 1982.]

The Tribe hereby agrees to comply with the following conditions made by Leelanau Indians Incorporated:

(a) Lot holders will not be required to be members of the Grand Traverse Band of Ottawa and Chippewa Indians;

(b) Applicants or holders must be descendants of the original grantee; and

(c) Present lot holders may remain on their lots.

§ 703. Relinquishment of Leasehold Interest in Lands Acquired by Leelanau Indians, Inc. [History: Tribal Act #87-545, enacted by Tribal Council on November 18, 1987.]

Legislative Background: The preamble to the resolution relinquishing the Tribe's leasehold interest reads as follows: Whereas the Grand Traverse Band was federally acknowledged effective May 27, 1980, and the Tribe is the political successor to the historic Grand Traverse Bands which were allocated lands in present-day Leelanau County under Article First, clause fifth of the Treaty of 1855; whereas by deeds executed on June 21, 1944, and March 17, 1970, the State of Michigan conveyed lands to Leelanau County to be held in trust for the Tribe; whereas by Lease executed November 7, 1978, Leelanau County leased these lands to Leelanau Indians, Inc.; whereas by Opinion and Order dated January 30, 1985, Leelanau County conveyed its underlying fee title of these lands to the United States of America in trust for the Grand Traverse Band; whereas by Memorandum dated October 1, 1987, the Department of the Interior's Assistant Secretary - Indian Affairs authorized the Area Director to accept these lands in trust for the Tribe, contingent upon the Tribe's furnishing of title evidence and the Field Solicitor's title opinion; and whereas the Tribe's leasehold interest technically is an encumbrance against the underlying fee title conveyed on December 10, 1985 by Leelanau County to the United States in trust for the Tribe, and it should be merged with the underlying fee title.

The Grand Traverse Band hereby relinquishes its leasehold interest and authorizes the Tribal Chairman to execute a quit claim deed of the leasehold interest to the United States of America in trust for the Tribe.

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Chapter 8
Easements And Rights-of-Way; Jurisdiction Over Certain Property

§ 801. Right-of-Way Grant to BIA for Health Center and Bingo Roads. [History: Tribal Act #84-228, enacted by Tribal Council on July 31, 1984.]

Legislative Background: The preamble for the resolution granting this right-of-way to the Bureau of Indian Affairs reads as follows:

Whereas the Grand Traverse Band of Ottawa and Chippewa Indians is a federally recognized Tribe so proclaimed May 27, 1984 with commensurate jurisdiction, and whereas the Tribe has been approved for BIA road construction projects titled "Health Center Road" and "Bingo Road", and whereas in order to partially fulfill prerequisites for start-up of said projects a right-of-way is required by the BIA, and whereas said right-of-way provides for public ingress and egress as required by the BIA, and whereas said right-of-way is fully given to the BIA for the purpose of maintaining said roads, and whereas under said right-of-way freedom is granted to the BIA to access roads described for this purpose of maintenance of surface 33 feet from the center of both ways of middle of said roadway, and whereas said right-of-way does not grant BIA title to roads, and whereas should said described roads be abandoned right-of-way reverts back to the Tribe, and whereas a public hearing on said project will be held August 15, 1984 with public comment period commencing this date and concluding August 17, 1984, and whereas legal descriptions of said road project sites are herein incorporated by reference.

The above-described right-of-way is granted to the Bureau of Indian Affairs, U.S. Department of Interior, by the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 802. Lots Designated for Educational and Cultural Purposes. [History: Tribal Act #84-253, enacted by Tribal Council on October 16, 1984.]

The Grand Traverse Band hereby designates Lots 6 and 7, Block 3 of the Village of Peshawbestown as being reserved for educational and cultural purposes.

§ 803. Peshawbestown Community Park. [History: Tribal Act #88-644, enacted by Tribal Council on August 17, 1988.]

[The parcel of land at Section 11, Block 3, Lots 16 and 17] is officially declared a park, intended for use by Grand Traverse Band members and all Native Americans, and whose official name shall be Peshawbestown Community Park.

§ 804. Elders Park. [History: Tribal Act #88-645, enacted by Tribal Council on August 17, 1988.]

[The parcel of land at Section 11, Block 5, Lot 1B] is officially declared a park area, to be used for the previously stated purposes, and whose official name shall be Elders Park.

§ 805. Ne-zhon-zha-wuk Park. [History: Tribal Act #88-646, enacted by Tribal Council on August 17, 1988.]

[The parcel of land consisting of the Southwest Quarter of the Southwest Quarter (SW 1/4 of the SW 1/4) of Section 35, Town 29 North, Range 8 West, Antrim County] is officially declared a park, intended for use by Grand Traverse Band members and all other Native Americans, and whose official name shall be Ne-zhon-zha-wuk Park.

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§ 806. Jurisdiction Over Railroad Right-of-Way. [History: Tribal Act #83-145, enacted by Tribal Council on June 8, 1993.]

Legislative Background: The preamble to the Tribal Act providing jurisdiction over the railroad right-of-way is as follows:

Whereas the Grand Traverse Band of Ottawa and Chippewa Indians became duly acknowledged as an Indian tribe with a government-to-government relationship with the United States by action of the Department of the Interior effective May 27, 1980; and whereas the Tribe desires to effectuate the federal policy of self-determination for Indian people through their tribal governments; and whereas the Tribe has determined to develop a portion of Tribal lands into a park dedicated to its Elders; and whereas Elders Park is located on land owned by the Tribe on both sides of the old C & O Railroad, and it is necessary to have access across the railroad in order to fully utilize the park; and whereas the current owners of the railroad right-of-way have not seen fit to cooperate with or even discuss the Tribe's intent to build a bridge across the railroad tracks to allow their Elders access to the waterfront area of the park; and whereas the railroad has not been in use for several years, with portions of the track having been removed and no apparent use as a railroad planned; and whereas recent federal court decisions have raised doubt whether the railroad has a valid right-of-way through lands in Leelanau County allotted to Grand Traverse Band members in the Treaty of 1855:

(a) The Grand Traverse Band of Ottawa and Chippewa Indians has determined to exercise its governmental right and declare that the railroad right-of-way through Tribal lands is within Tribal jurisdiction, and no other easement is necessary.

(b) These portions of the railroad right-of-way shall be determined to be abandoned and the Tribe is authorized to construct the bridge allowing the Elders complete access to the park.

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Chapter 9
Homeownership Protection From Predatory Lending Ordinance

§ 901. Title. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

This Chapter shall be known as the "Homeowner Protection from Predatory Lending Ordinance."

§ 902. Council Findings and Purpose of the Ordinance. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

(a) The Tribal Council finds and declares that unscrupulous mortgage lenders often engage in "predatory lending," practices in which lenders make unsuitable loans designed to exploit vulnerable unsophisticated borrowers. These "predatory loans" are a subset of sub-prime lending and loans and have one or more of the following features:

(1) Charges more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections;

(2) Contains abusive terms and conditions that trap borrowers and lead to increased indebtedness;

(3) Does not take into account borrowers' abilities to repay the loans; or

(4) Violates fair lending laws by targeting Tribal members.

(b) The Homeownership Protection from Predatory Lending Ordinance establishes a behavior standard by which creditors, lenders, appraisers, home inspectors, builders, manufactured housing dealers, contractors, and real estate agents must conduct business when tribal members, lands, and/or dollars are involved in housing and mortgage lending transactions. The intent of this Ordinance is to eliminate predatory behavior/practices by requiring all "interested parties" to disclose business relationships and arrangements that could influence the decision making process in a proposed transaction. The Ordinance prohibits "interested parties" from receiving undisclosed referral fees, "excessive transaction related commission/fees" and/or other consideration that violate the spirit of this Tribal Code. The Realtor Agency Disclosure Statement and HUD 1 Settlement Statement must identify all fees and clearly define transactional costs including business relationships with "related parties." The Tribe must receive a complete copy of the HUD 1 Settlement Statement for the buyer and seller three days prior to the scheduled closing.

§ 903. Definitions. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

(a) "Affiliate" means any company that controls, is controlled by, or is under common control with another company, pursuant to the federal "Bank Holding Company Act of 1956" (12 U.S.C. § 1841 et seq.).

(b) "Annual Percentage Rate" means the annual percentage rate for a loan calculated pursuant to the federal "Truth in Lending Act" (15 U.S.C. § 1601 et seq.), and the regulations promulgated by the Federal Reserve Board.

(c) "Bona Fide Loan Discount Points" means loan discount points knowingly paid by a borrower for the purpose of reducing, and which result in a reduction of, the interest rate or time-price differential applicable to the loan, provided the amount of the interest rate reduction purchased by the discount

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points is reasonably consistent with established industry practices for market transactions.

(d) "Borrower" means any natural person or persons/Tribal member(s) obligated to repay a loan, including, without limitation, a co-borrower, cosigner, or guarantor.

(e) "Credit Insurance" means any credit life, credit disability, credit unemployment, accident, health or loss of income insurance or any other line or subline of insurance which may become accepted as credit insurance by the insurance and lending industries or any debt cancellation or suspension agreement or contract (whether or not the debt cancellation or suspension agreement or contract coverage is insurance under applicable law) or any similar product.

(f) "Creditor" means a person who extends consumer credit that is subject to a finance charge or that is payable by written agreement in more than four installments and to whom the obligation is payable.

(g) "High-Cost Home Loan" means any loan or extension of credit, including an open-end line of credit but excluding a reverse mortgage transaction, as defined in 12 C.F.R. § 226.33, as from time to time amended:

(1) The principal amount of the loan does not exceed the lesser of the conforming loan size limit for a single-family dwelling as established from time to time by the Federal National Mortgage Association;

(2) The borrower is a natural person/GTB Tribal member;

(3) The debt is incurred by the borrower primarily for personal, family or household purposes;

(4) The loan is secured by a security leasehold interest or mortgage on real estate upon which there is erected or to be erected a one- to four-family dwelling; and

(5) The terms of the loan equal or exceed one or more of the "thresholds," as that term is defined in this Act.

(h) "Home Loan" means a loan or agreement to extend credit made to a natural person/Tribal member, which loan is secured by a leasehold interest, a deed to secure debt, security deed, mortgage, security instrument, deed of trust, or other document representing a security interest or lien upon any interest in one- to four-family residential property or a manufactured home located in (the Grand Traverse Band of Ottawa and Chippewa service area, which is represented by the following counties in Michigan: Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau and Manistee), regardless of where made, including the renewal or refinancing of any such loan. Without limiting the generality of the foregoing, the term specifically includes a home equity line of credit, a commercial or small business loan secured by a residential property or manufactured home, per capita loan, or other similar agreement.

(i) "Interested Party" means any party that generally, but not necessarily, benefits from the final outcome of the transaction.

(j) "Junior Mortgage" means a home loan secured by a deed of trust or mortgage on real property if the deed of trust or mortgage is junior in priority to another deed of trust or mortgage on the real property.

(k) "Lender" means any person who makes a home loan or acts as a mortgage broker with respect to a home loan.

(l) "Loan Consummation" means the time that a consumer becomes contractually obligated on a credit transaction.

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(m) "Mortgage Broker" means any person who functions as intermediary for a fee between the borrower and the creditor in the making of a home loan.

(n) "Originate" means to arrange, negotiate, or make a consumer loan.

(o) "Prepayment penalty" means any charge or penalty for paying all or part of the principal before the date on which the principal is due and includes computing a refund or unearned interest by a method that is less favorable to the borrower than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 U.S.C. § 1615(d), as from time to time amended.

(p) "Points and fees" means:

(1) All items required to be disclosed under 12 C.F.R. §§ 226.4(a) and 226.4(b), as amended, except interest or the time-price differential;

(2) All charges, except for escrow amounts for future payments of taxes and insurance, for items listed under 12 C.F.R. § 226.4(c)(7), as amended, if the creditor receives direct or indirect compensation in connection with the charge of the charge is paid to an affiliate of the creditor, or third party or parties;

(3) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a home loan in its own name through an advance of moneys and subsequently assigns the home loan to the person advancing the moneys;

(4) The maximum prepayment fees or penalties that may be charged or collected under the terms of the loan documents;

(5) All prepayment fees or penalties that are charged to the borrower if the loan refinances a previous loan made by the same creditor or an affiliate of the creditor;

(6) For open-ended loans, the points and fees are calculated by adding the total fees charged at closing plus the maximum additional fees that can be charged pursuant to the loan documents during the term of the loan.

(7) The term "points and fees" does not include taxes, filing fees, recording charges, and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest.

(q) "Rate" means the interest rate charged on the home loan, based on an annual simple interest yield.

(r) "Threshold" means any one of the following:

(1) The annual percentage rate of the loan equals or exceeds:

(A) By more than four percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor, if the home loan is a first mortgage; or

(B) By more than five percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor, if the home loan is a junior mortgage.

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(2) The total points and fees equals or exceeds 3% of the total loan amount or $400, whichever amount is greater; provided, the following discount points are excluded from the calculation of the total points and fees payable by the borrower:

(A) Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate without the discount points does not exceed by more than one percentage point the average interest rate posted on Freddie Mac's Weekly Mortgage Rate Survey.

(B) Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate without the discount points is more than one percentage point higher but less than two percentage points greater than the average interest rate posted on Freddie Mac's Weekly Mortgage Rate Survey.

If the terms of the home loan provide for an initial or introductory period during which the annual percentage rate is lower than that which will apply after the end of such initial or introductory period, then the annual percentage rate to be considered for purposes of the definition is the rate which applies after the initial or introductory period. If the terms of the home loan provide for an annual percentage rate that varies in accordance with an index plus a margin or varies in any other manner, then the annual percentage rate to be considered for purposes of this definition is the maximum rate that will be charged during the term of the loan. For loans that vary according to an index, the annual percentage rate is computed as the index rate at loan closing plus the largest margin specified in the loan agreements.

(s) "Total Loan Amount" means the principal of the loan minus those points and fees as defined in Subsection (o) of this section that are included in the principal amount of the loan. For open-ended loans, the total loan amount is calculated using the total line of credit allowed under the home loan.

§ 904. Limitations on Home Loans. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

All home loans made within the jurisdiction of the Grand Traverse Band are subject to the following limitations:

(a) No Financing of Credit Insurance. No creditor making a home loan may finance, directly or indirectly, the premiums for any credit life, credit disability, credit property, or credit unemployment insurance, or any other life or health insurance premiums, or any payments for any debt cancellation or suspension agreement or contracts. Insurance premiums and debt cancellation or suspension agreement payments that are not included in the home loan principal and that are calculated and paid on a monthly basis may not be considered to have been financed by the creditor for purposes of this subsection.

(b) No Flipping. No creditor shall knowingly or intentionally engage in the unfair act or practice of flipping a consumer home loan. For the purposes of this section, "flipping" is the making of a home loan to a borrower that refinances an existing home loan when the new loan does not have a tangible benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances. Home loan refinancings are presumed to be flippings if the primary tangible benefit to the borrower is an interest rate lower than the interest rate on debts satisfied or refinanced in connection with the home loan, and it will take more than four years for the borrower to recoup the costs of the points and fees and other closing

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costs through savings resulting from the lower interest rate. The provisions of this subsection apply regardless of whether the interest rate, points, fees and charges paid or payable by the borrower in connection with the refinancing exceed those thresholds as defined in 13 GTBC § 903(r) of this Act.

(c) No Default Recommendations. No creditor may recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a home loan that refinances all or any portion of that existing loan or debt.

(d) No Excessive Late Fees. A creditor may not charge a late payment fee except according to the following rules:

(1) The late payment fee may not be in excess of 4% of the amount of the payment past due.

(2) The late payment fee may be assessed only for a payment past due for 15 days or more.

(3) The late payment fee may not be charged more than one time with respect to a single late payment. If a late payment charge is deducted from a payment made on the loan, and the deduction causes a subsequent default on a subsequent payment, no late payment charge may be imposed for the default. If a late payment charge has been imposed one time with respect to a particular late payment, a late payment fee may not be imposed with respect to any future payment that would have been timely and sufficient, but for the previous default.

(4) A late payment fee may not be charged unless the creditor notifies the borrower within 45 days following the date the payment was due that a late payment charge has been imposed for a particular late payment. No late payment charge may be collected from any borrower if the borrower informs the creditor that nonpayment of an installment is in dispute or presents proof of payment within 45 days after receipt of the creditor's notice of the late charge.

(5) A creditor must treat each payment as posted on the same date as it was received by the creditor, services, or creditor's agent, or at the address provided to the borrower by the creditor, services, or the creditor's agent for making payments.

(e) No Refinancing of Special Mortgages. No creditor may make a home loan if the new loan refinances an existing home loan that is a special mortgage originated, subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit organization, that either bears nonstandard payment terms beneficial to the borrower, such as payments that vary with income, are limited to a percentage of income, or where no payments are required under specified conditions, or with a below-market interest rate that is at least one percentage point less than the average interest rate posted on Freddie Mac's Weekly Mortgage Survey, and where, as a result of the refinancing, the borrower will lose one or more of the benefits of the mortgage.

(f) No Call Provisions. A home loan may not contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This subsection does not prohibit acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

(g) No Fee for Balance or Payoff. A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a release upon prepayment. A creditor must provide payoff balance not later than seven business days after the request is received by the creditor.

(h) No Fee for Product Where Product Not Provided. A creditor may not charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service.

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(i) No Above-Market Charges for Services. No third party may charge or receive any unreasonable compensation for loan-related goods, products, and services. For the purpose of this section, "unreasonable compensation" is a price for loan-related goods, services, and products that is 50% higher than the average price in (a metropolitan area or the non-metropolitan areas of a state or Leelanau/Grand Traverse Counties). The average price can be determined by obtaining quotes for services from three or more third parties. Loan-related goods, products and services include fees for tax payment services, fees for flood certification, fees for pest infestation determinations, mortgage brokers' fees, appraisal fees, inspection fees, environmental assessment fees, fees for credit report services, assessments, costs of upkeep, surveys, attorneys' fees, notary fees, escrow charges and insurance premiums, including, for example, fire, title, life, accident and health, disability, unemployment, flood and mortgage insurance.

(j) No False Statements or Representations. A creditor, appraiser, broker, or real estate agent must not make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a home loan, including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product, or regarding the value of the dwelling. A statement or representation is deceptive or misleading if it has the capacity to deceive or mislead a borrower or potential borrower. The court may consider the following factors in deciding whether a statement or representation is deceptive or misleading:

(1) The overall impression that the statement or representation reasonably creates.

(2) The particular type of audience to which the statement is directed.

(3) Whether it may be reasonable comprehended by the segment of the public to which the statement is directed.

(k) No Influencing Appraiser. A creditor, broker, or real estate agent may not directly or indirectly compensate, coerce, or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate covered by a home loan or is being offered as security according to an application for a home loan.

(l) No Blanks in Loan Documents. A home loan document in which blanks are left to be filled in after the contract is signed by the borrower is not enforceable under the law.

(m) Required Language Accommodation. If the discussions between the creditor and the borrower on a home loan are conducted primarily in a language other than English, the creditor must, before closing, provide an additional copy of all information required to be disclosed to the borrower under the federal Truth in Lending Act and the Real Estate Settlement Procedures Act, translated into the language in which the discussions were conducted, or make available an objective third party interpreter who can explain the loan transaction and translate the loan documents and disclosures into the language in which the discussions were conducted.

(n) Required Disclosure of Yield Spread Premiums. In the making of a home loan, the amount of yield spread premium and other compensation paid to mortgage brokers must be disclosed to the borrower no later than three days prior to closing the home loan. The borrower must also be informed of the comparison of the dollar amount of the yield spread premium paid to the broker and the dollar amount of the loan costs assumed by the broker. The borrower must also be informed how many basis points the interest rate increased due to the yield spread premium and how much the increase in the interest rate adds to the monthly loan payment and the total loan payment over the term of the loan.

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§ 905. Limitations on High-Cost Home Loans. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

All high-cost home loans are subject to the following limitations:

(a) No Financing of Points and Fees. No creditor making a high-cost home loan may directly or indirectly finance:

(1) Any prepayment fees or penalties payable by the borrower in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced;

(2) Points and fees defined in 13 GTBC § 903 in excess of 3% of the total loan amount; or

(3) Any other charges payable to third parties.

(b) No Benefit From Refinancing Existing High-Cost Home Loan With New High-Cost Home Loan. A creditor may not charge a borrower points, fees, or other charges in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same creditor or an affiliate of the creditor.

(c) Limit on Prepayment Penalties.

(1) A high-cost loan shall not include a prepayment fee or penalty after the first 24 months after the late of consummation of the loan.

(2) A covered loan may include a prepayment fee or penalty up to the first 24 months after the date of consummation of the loan if:

(A) The person who originates the covered loan has also offered the consumer a choice of another product without a prepayment fee or penalty.

(B) The person who originates the covered loan has disclosed in writing to the consumer at least three business days prior to loan consummation the terms of the prepayment fee or penalty to the consumer for accepting a covered loan with the prepayment penalty and the rates, points, and fees that would be available to the consumer for accepting a covered loan without a prepayment penalty.

(C) The person who originates the covered loan has limited the amount of the prepayment fee or penalty to an amount not to exceed the payment of six months' advance interest, at the contract rate of interest then in effect, on the amount prepaid in any twelve-month period in excess of 20% of the original principal amount.

(3) A covered loan will not impose the prepayment fee or penalty if the covered loan is accelerated as a result of default.

(4) The person who originates the covered loan will not finance a prepayment penalty through a new loan that is originated by the same person.

(d) No Balloon Payment. No high-cost home loan may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. For a payment schedule that is adjusted to account for the seasonal or irregular income of the consumer, the total installments in any year may not exceed the amount of one year's worth of payments on the loan. This prohibition does not apply to a bridge loan. For purposes of this paragraph, "bridge loan" means a loan with a maturity of less than 18 months that only requires payments of interest until the time when the entire unpaid balance

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is due and payable.

(e) No Steering. No creditor making a high-cost home loan may steer a borrower into a loan with higher costs than the lowest-cost category of loans for which the borrower could qualify with that creditor or any of its affiliates. No mortgage broker arranging a high-cost home loan may steer a borrower into a loan with higher costs than the lowest-cost array of loans available to that borrower from the creditors with whom the mortgage broker regularly does business.

(f) No Negative Amortization. No high-cost home loan may contain a payment schedule with regular periodic payments that cause the principal balance to increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

(g) No Advance Payments. No high-cost home loan may include terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(h) No Increased Interest Rate Upon Default. Except with regard to interest rate changes in a variable-rate loan in which the increase is otherwise consistent with the provisions of the loan documents and in which the event of default or the acceleration of the indebtedness does not trigger a change in the interest rate, no high-cost home loan may contain a provision that increases the interest rate after default.

(i) No Modification or Deferral Fees. A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan.

(j) No Mandatory Arbitration Clause. No high-cost loan may be subject to a mandatory arbitration clause that limits in any way the right of the borrower to seek relief through the judicial process. Non-binding arbitration and mediation would be acceptable forms of attempted dispute or conflict resolution.

(k) No Lending Without Home Ownership Counseling. A creditor may not make a high-cost home loan without first receiving certification from a counselor approved by the Grand Traverse Band and/or United States Department of Housing and Urban Development or the creditor's regulatory agency of jurisdiction that the borrower has received counseling on the advisability of the loan transaction and the appropriate loan for the borrower.

(l) No Lending Without Due Regard to Repayment Ability.

(1) A creditor may not make a high-cost home loan unless the creditor reasonably believes at the time the loan is consummated, the person reasonably believes the consumer, or consumers, when considered collectively in the case of multiple consumers, will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources, other than the consumer's equity in the dwelling that secures repayment of the loan. In the case of multiple consumers, a creditor may not include or add a borrower to the high-cost loan, unless the individual or added borrower separately confirms in writing to the creditor that the borrower expects and commits to substantially contribute to payments.

(2) The consumer is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the consumer's total monthly debts, including amounts owed under the loan, do not exceed 50% of the consumer's monthly gross income, as verified

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by the credit application, the consumer's financial statement, a credit report, financial information provided to the person originating the loan by or on behalf of the consumer, or any other reasonable means. In the case of a covered loan with an annual percentage rate that varies, this evaluation shall be based upon the procedures for computing the annual percentage rate in 13 GTBC § 903 (q) above.

(m) No Attempted Evasion. A creditor who originates a high-cost loan may not avoid, or attempt to avoid, the application of this division by doing the following:

(1) Dividing any loan transaction into separate parts for the purpose of evading the provisions of this Act.

(2) Any other such acts or practices with the intent of evading the provisions of this Act.

(n) Restrictions on Home-Improvement Contracts. A creditor may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan unless:

(1) The creditor is presented with a completion contract dated and signed by all parties to the home-improvement contract showing that the home improvements have been completed; and

(2) The instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the creditor, and the contractor prior to the disbursement.

(o) Required Notice. A creditor or broker may not sell, transfer or otherwise assign a high-cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: THIS IS A HOME LOAN SUBJECT TO SPECIAL RULES AND CONDITIONS AS REQUIRED BY TRIBAL LAW. PURCHASERS OR ASSIGNEES OF THIS LOAN ARE LIABLE FOR ALL CLAIMS AND DEFENSES WITH RESPECT TO THE LOAN THAT THE BORROWER COULD ASSERT AGAINST THE CREDITOR OR BROKER OF THE LOAN."

(p) Required Reporting of Payments. Any lender who makes a high-cost home loan must report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit reporting agency at least annually during such period as the lender holds or services the loan.

§ 906. Right to Cure. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

(a) Right to Reinstate. If a creditor asserts that grounds for acceleration exist and requires the payment in full of all sums secured by the security instrument, the borrower or anyone authorized to act on the borrower's behalf has the right at any time, up to the time title is transferred by means of foreclosure, judicial proceeding and sale, or otherwise, to cure the default and reinstate the high-cost home loan by tendering the amount or performance as specified in this section. Cure of default as provided in this section reinstates the borrower to the same position as if the default had not occurred and nullifies as of the date of the cure any acceleration of any obligation under the security instrument or note arising from the default.

(b) Grounds for Reinstatement. Before any action filed to foreclose upon the property or other action is taken to seize or transfer ownership of the property, a notice of the right to cure the default must be delivered to the borrower informing the borrower of the following:

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(1) The nature of default claimed on the high-cost home loan, and of the borrower's right to cure the default by paying the sum of money required to cure the default; except that a creditor or services may not refuse to accept any reasonable partial payment made or tendered in response to such notice. If the amount necessary to cure the default will change during the twenty-day period after the effective date of the notice due to the application of a daily interest rate or the addition of late fees, as allowed by this Act, the notice must give sufficient information to enable the borrower to calculate the amount at any point during the twenty-day period;

(2) The date by which the borrower must cure the default to avoid acceleration and initiation of foreclosure, or other action to seize the property, which date may not be less than 20 days after the date the notice is effective, and the name, address, and telephone number of a person to whom the payment or tender shall be made;

(3) That if the borrower does not cure the default by the date specified, the creditor may take steps to terminate the borrower's ownership in the property by requiring payment in full of the high-cost home loan and commencing a foreclosure proceeding or other action to seize the property; and

(4) The name and address of the creditor and the telephone number of a representative of the creditor whom the borrower may contact if the borrower disagrees with the creditor's assertion that a default has occurred or the correctness of the creditor's calculation of the amount required to cure the default.

(c) Fees. To cure a default under this section, a borrower is not required to pay any charge, fee, or penalty attributable to the exercise of the right to cure a default as provided for in the section, other than the fees specifically allowed by this section. The borrower may be liable for attorney fees that are reasonable and actually incurred by the creditor, based on a reasonable hourly rate and a reasonable number of hours; except that the borrower may not be liable for any attorney fees relating to the borrower's default that are incurred by the creditor prior to or during the twenty-day period set forth in this section.

§ 907. Civil Action; Tribal Court Jurisdiction; Enforcement and Remedies. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

(a) Civil Action. The Tribal Council authorizes any borrower to initiate a civil action in Grand Traverse Band Tribal Court to enforce this Ordinance. The Tribal Council is also authorized to initiate a civil action of declaration, injunctive, or other equitable relief on its own behalf, on behalf of the public interest, or on behalf of a borrower to enforce this Ordinance.

(b) Jurisdiction. The Grand Traverse Band Tribal Court has exclusive jurisdiction over all civil actions initiated to enforce this Ordinance. As a matter of law, persons engaging in lending activities covered in this Ordinance consent to the jurisdiction of the Grand Traverse Band Tribal Court.

(c) Enforcement and Remedies.

(1) Any violation of this Act constitutes an unfair or deceptive trade practice.

(2) Any person found by a preponderance of evidence to have violated this Act is liable to the borrower for the following:

(A) Actual damages sustained by the borrower as a result of the violation. The borrower is required to demonstrate reliance in order to receive actual damages;

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(B) Statutory damages equal to the finance charges agreed to in the home loan agreement plus 20% of the amount financed for all violations;

(C) Punitive damages if the violation was malicious or reckless;

(D) Reasonable costs and attorney fees. In addition, the court may, as the court deems appropriate, grant injunctive, declaratory, and other equitable relief in an action to enforce compliance.

(3) The intentional violation of this Act, including the absence of acting in good faith, renders the home loan agreement void. A creditor intentionally violating any provision in this Act has no rights to collect, receive, or retain any principal, interest, or other charges whatsoever with respect to the loan, and the borrower may recover any payments made under the agreement. Loan terms that violate the protections of this Act are unenforceable, and the courts may issue orders to reform any terms to bring the loan into compliance.

(4) The brokering of a home loan that violates the provisions of this Act constitutes a violation of such provisions.

(5) The rights of rescission granted under 15 U.S.C. § 1601 et seq. for violations of this Act and all other remedies provided in this Act are available to a borrower by way of recoupment against a party foreclosing on the home loan or collecting on the loan, at any time during the term of the loan.

(6) The borrower may also assert a violation of this Act as a defense, bar, or counterclaim to any default action, collection action, or judicial or nonjudicial foreclosure action in connection with a home loan.

(7) The remedies provided under this Act are cumulative. The protections and remedies provided under this Act are in addition to other protections and remedies that may be otherwise available under law. Nothing in this Act is intended to limit the rights of any injured person to recover damages or pursue any other legal or equitable action under any other applicable law or legal theory.

(8) Any entity that purchases or is otherwise assigned a home loan is liable for all claims and defenses with respect to the loan that the borrower could assert against the creditor or broker of the loan.

(9) A creditor that makes a home loan and that, when acting in good faith, fails to comply with the provisions of this Act will not be deemed to have violated this Act if the creditor establishes that either:

(A) Within 30 days after the loan closing, and prior to receiving any notice from the borrower or any governmental agency of such noncompliance, the creditor made appropriate restitution to the borrower and made appropriate adjustments to the loan; or

(B) Within 60 days after the loan closing, prior to receiving any notice from the borrower of such noncompliance, and the noncompliance was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors, the creditor made appropriate restitution to the borrower and made appropriate adjustments to the loan. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

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(10) High-cost home loans are governed by this Act notwithstanding any other provision of law to the contrary.

§ 908. Severability. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

The provisions of this Act are severable, and if any phrase, clause, sentence, paragraph, or provision of this Act, or the application thereof to any person or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act nor the application of such phrase, clause, sentence, paragraph, or provision to other persons or circumstances, but is confined in its operation to the phrase, clause, sentence, paragraph, or provision thereof and to the persons or circumstances directly involved in the controversy in which such judgment may have been rendered. If any provision of this Act is declared to be inapplicable to any specific category, type of loan or points and fees, the provisions of this Act shall nonetheless continue to apply with respect to all other loans and points and fees.

§ 909. Effective Date and Applicability. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

(a) Effective Date. This Act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after enactment.

(b) Applicability. This Act applies to home loans and high-cost home loans offered or originated or consummated on or after the applicable effective date of this Act.

§ 910. Sovereign Immunity. [History: Tribal Act #03-21.1190, enacted by Tribal Council in Special Session on January 29, 2003.]

Nothing in this Ordinance is, or may be construed as, a waiver of the sovereign immunity of the Grand Traverse Band, its officers, employees, or agents.

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Chapter 10
Judicial Eviction Ordinance

§ 1001. Purpose; Applicability. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

This chapter is intended to provide a uniform and fair procedure governing the eviction of persons from Tribally held and/or managed residential properties when the cause for eviction is violation of a residential lease or for cause by a violation of a Grand Traverse Band of Ottawa and Chippewa Indians (GTB, Grand Traverse Band) Housing Department Policy and Procedure as established under the authority of the Native American Housing Assistance and Self-Determination Act, 25 U.S.C. § 4101 et seq. (NAHASDA).

§ 1002. Definitions. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

(a) Eviction: the recovery of real property and the termination of any possessory interest in that property by operation of law.

(b) Tribally held or managed: Property under the control of the Grand Traverse Band through the GTB Housing Department. Tribally held property are units held and managed under NAHASDA authority as low rent units managed by the Housing Department. "Managed property" are units managed and held as "Mutual Help Homes" under the authority of NAHASDA. "Market Rentals" are units held and managed by the Housing Department outside the authority of NAHASDA.

(c) For cause: Any substantial violation of the GTB Housing Department policy and procedure, or violation of a residential lease.

§ 1003. Summons and Complaint. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

If after the date set forth in the GTB Housing Department's notice to quit possession of the property, the tenant remains in possession, the GTB Housing Department may file a complaint for eviction and such other relief as deemed just and proper, in the Tribal Court. The complaint shall state:

(a) The names of the adult tenant(s) against whom the suit is brought;

(b) A description of the rental agreement, if any;

(c) The address or reasonable description of the location of the premises;

(d) The grounds for eviction;

(e) A statement showing that the notice to quit and any required termination notices have been served in accordance with this ordinance or other applicable law;

(f) A statement of the relief demanded, including any claim(s) for possession of the dwelling unit, damages, fees, costs, or other special relief;

(g) If violation of a federal regulation is asserted as the grounds for eviction for cause, the federal regulation shall be cited; and

(h) The GTB Housing Department shall declare compliance with all regulatory processes prior to filing the complaint for eviction.

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§ 1004. Action Upon Filing Complaint. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

(a) The Tribal Court shall, within 13 business days of filing, review the complaint for eviction and shall make findings regarding compliance with § 1003. If found in compliance, the complaint shall be served pursuant to § 1003 along with the Court's summons requiring the defendant to answer the complaint either in person or in writing on or before a date certain. In cases in which the grounds for eviction is for cause as defined herein, the answer shall be due no less than three, or more than five calendar days from the date of the summons. In all other cases, the answer shall be filed either in writing or in person within 10 calendar days of the date of the summons. Proof of service of the complaint and summons shall be required before proceeding.

(b) Any answer to the complaint shall state any and all defenses to be asserted as well as any factual disputes. When the defendant answers the complaint in person, a written rendering of the answer shall be served upon the plaintiff within five business days of receipt of the answer.

§ 1005. Commencement of Proceedings. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

(a) If the defendant timely files an answer either in person or in writing, the Court shall set a date for hearing at which the defendant shall appear and show cause why an order of eviction should not be entered. All parties shall be notified by the court of the date, time, and place of the hearing no less than three business days prior to the scheduled hearing.

(b) The hearing to show cause shall be held within 15 calendar days of the date of filing of the answer. If the hearing date falls on a weekend day or holiday, the hearing will held on the first business day following the weekend or holiday.

(c) If the stated cause for eviction is the non-payment of rents, the defendant may, for good cause shown and upon payment in full of all rents due from the date of filing of the complaint until the scheduled date of the show cause hearing may, at the court's discretion, obtain an extension of time for the hearing of no more than 15 additional days. There shall be no extension of time of hearing when the complaint alleges for cause grounds for eviction.

(d) The Court may, as a matter of discretion, or upon motion of either party, order the defendant to pay into an escrow account with the Court rents due for the occupancy of the property pending litigation. Upon final determination of the Court regarding eviction, the funds in escrow may be released entirely or in part to the plaintiff or its agent in satisfaction of terms of the lease or other GTB Housing Department agreement. Funds not released to the plaintiff or its agent pursuant to a final judgment shall be released to the defendant.

§ 1006. Defenses to Eviction. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

The Court shall grant remedies provided within this ordinance unless clear and convincing evidence is presented demonstrating:

(a) The premises of the property that is the subject of the lease or other housing agreement are untenable, uninhabitable or present a condition constituting constructive eviction by the plaintiff or its agent and that defendant provided reasonable and proper notice to the plaintiff of the condition and that plaintiff failed to timely remedy any serious hazard to human health and safety. Infringement upon an aesthetic use of the property, whether adversely affecting the quiet use and enjoyment of the property by the

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defendant, shall not constitute a serious hazard.

(b) The plaintiff has failed or refused to make repairs for which plaintiff is responsible resulting in an adverse effect on defendant's quiet use and enjoyment of the property. Defendant must have provided the plaintiff notice of the defect and plaintiff either, without good cause, failed to make timely repairs or refused to repair the defect.

(c) There are monies due and owing to the defendant because defendant has been required to make repairs on conditions over which the plaintiff is responsible and plaintiff has, after reasonable notice, failed or refused to make the repairs. Sums owing to the defendant may be a complete or partial defense to complaint for eviction, but only to the extent that such sums set off monies validly owed to the defendant pursuant to the lease or other housing agreement. Eviction may be ordered after offset, if defendant fails or refuses to comply with the terms of the lease or other housing agreement.

(d) Due to improper conduct of plaintiff, there has been injury to the defendant or lawful members of the household to the degree that justice is served by modification or denial of remedies including but not limited to the equitable defenses of estoppel, laches, fraud, misrepresentation and breach of material obligations to public health and safety to a degree that offends community standards of peace and justice.

(e) Serious and material breach(es) of applicable housing federal and Tribal statutes by the plaintiff such that a grant of remedy would be adverse to justice and against public policy.

(f) The cause for eviction is apparently the race, color, national origin, religion, sex, familial status or handicap [The Fair Housing Act, 42 USCA § 3601 et seq.] of the defendant or lawful members of the household.

(g) The termination of the tenancy and/or housing agreement is clearly in retaliation for the defendant's assertion of rights under this ordinance or defendant's efforts to compel plaintiff to comply with responsibilities defined in this ordinance.

(h) Other material facts presented by the defendant that clearly demonstrate that eviction is unjust and contrary to public interest.

§ 1007. Discovery and Pre-hearing Proceedings. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

Extensive, prolonged or time consuming discovery and pre-hearing procedures are impermissible except in the interest of justice and for good cause shown by the moving party. Extensions of time for discovery and pre-hearing shall only be granted upon written motion to the Court. Discovery shall be informal, and reasonably reciprocal, completed within five calendar days of the date of hearing. Discovery requests shall be made within three calendar days after the show cause hearing has been set. The court may enter reasonable orders requiring discovery or to protect the rights of the parties upon receipt of reasonable notice.

§ 1008. Evidence. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

The presentation and admission of evidence under this ordinance shall comport with the following:

(a) All relevant and material evidence may be admitted.

(b) The interests of justice and fairness shall be the determinative factors in ruling on challenges to the admissibility of evidence.

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(c) The Court may avail itself of any recognized authoritative materials, books or documents to guide it in reaching a ruling on the admissibility of any evidence.

(d) Evidence of the customs, traditions and mores of Native American tribes, particularly those of the Ottawa and Chippewa, are admissible.

(e) The Court may admit reasonable and reliable hearsay evidence. Determinations regarding hearsay objections shall be based upon the materiality and relevance of the evidence under the circumstances. Evidence may be excluded if its probative value is outweighed by a substantial likelihood of prejudice, confusion, unfair surprise or misleading of the trier of fact. Hearsay is freely admissible when all parties to the hearsay are present before the court and qualified to testify regarding the hearsay evidence.

(f) Incident reports generated by law enforcement agencies shall be admissible hearsay under this ordinance.

(g) Upon request of any party, the Court may take judicial notice of specific facts which, by reason of common certainty in the community, are undisputable.

§ 1009. Burden of Proof. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

The burden of proof for issuance of an order of eviction shall be a preponderance of the evidence that lawful reason exists to terminate the lease or other housing agreement.

§ 1010. Judgment. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

Judgment on eviction shall be rendered within five calendar days of the hearing to show cause and take the following forms:

(a) Order of eviction stating the date and time for complete delivery of the property to plaintiff.

(b) Grant of actual damages as provided for in the agreement of the parties or this ordinance, including interest.

(c) Order parties to execute an obligation required by law.

(d) Establish a payment plan for the defendant.

(e) Establish and grant power of attorney in another person or entity to fulfill the rights and/or obligations of either party.

(f) Remediate the action in part or in whole through appropriate recalculation of rents or sums due.

(g) Order the defendant to perform specific work for the plaintiff in consideration of sums due and/or damages.

(h) Order payment of attorneys' fees and, where allowed by law or agreement, costs and expenses of litigation.

(i) Order the parties into negotiations as provided for in this ordinance.

(j) Grant any other relief allowed in law or equity and provided for in this ordinance.

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§ 1011. Default. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

If a defendant fails to answer the complaint for eviction or appear for the hearing to show cause, the Court shall enter a default judgment in favor of plaintiff which presumes all facts presented in the complaint to be true. If plaintiff fails to appear for the hearing to show cause, the Court may dismiss the complaint with or without prejudice.

§ 1012. Form of Judgment. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

The judgment shall be in the form of an order and specifically state the relief granted but need not state findings of fact or law. The judgment may offer a brief statement in support of the order. The Court should, whenever possible, render an immediate judgment.

§ 1013. Execution of Judgment. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

The order of eviction may be executed by a duly authorized law enforcement officer or other officer of the Court, or one appointed by the Court for that purpose. Execution of an eviction order shall entail:

(a) Removal of the defendant and all members of that person's household from the dwelling with verbal notice not to return or re-enter the premises.

(b) Provision of a copy of the order of eviction to all adult tenants/occupants of the property.

(c) The posting of the order of eviction upon the door of the premises if no legal occupant of the property is present at the time of execution.

(d) Supervision of the removal of all possessions of the tenant and/or legal occupants.

(e) Judgment shall be executed within five days of the entry of judgment unless the order specifies a date certain for execution of the order. The person who executes the order of eviction shall make a report to the Court within 48 hours of the execution of the order. The report shall include the date and time of execution and a brief description of the action taken to execute the order. Failure to properly and timely execute an order of eviction in good faith shall be subject to payment of reasonable damages, costs and the expenses of either party arising directly from the failure to properly execute in good faith. Additionally a person who fails to properly execute an eviction order in good faith may be subject to suspension or termination from employment. This section shall apply to any judgment for the defendant obtained under this ordinance and the general civil procedure, small claims procedure of the Grand Traverse Band.

§ 1014. Stay of Execution of Order. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

If a judgment favors the plaintiff, the defendant may apply for a stay of execution of the eviction order if within five days of judgment being rendered, the following is established:

(a) Good and reasonable grounds affecting the well being of the defendant are stated;

(b) There would be no substantial prejudice or injury to the plaintiff during the period of the stay;

(c) Execution of the judgment could result in extreme hardship for the defendant(s); or

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(d) A bond is posted or monies are paid to the Court, to satisfy the judgment or payment for the reasonable use and occupancy of the premises during the period of time following the judgment. No stay may exceed three months in the aggregate. The Court Clerk shall distribute such arrearages to the plaintiff in accordance with any order of the Court.

§ 1015. Appeals. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

Appeals under this ordinance shall be handled according to the general Tribal appellate provisions, with the exception that the party taking the appeal shall have only five days from the entry of the order of judgment to file an appeal. All orders from the Court will remain in effect during the pendency of an appeal under this ordinance unless otherwise ordered by the Court.

§ 1016. Miscellaneous Complaints and Claims. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

Any miscellaneous complaint or claim including a complaint or claim by a tenant which does not fall within the procedures of this ordinance may be made under the general Tribal civil procedure code and/or Tribal small claims procedure code.

§ 1017. Notice to Leave the Premises. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

Any notice to leave the premises shall be by written order of the Court, and shall be delivered to the defendant in the following manner:

(a) Delivery shall be made by:

(1) A law enforcement officer of the Tribe or an agency of the United States government; or

(2) Any person authorized by the Tribal Court.

(b) Delivery will be effective when it is:

(1) Personally delivered to a defendant with a copy delivered by mail; or

(2) Personally delivered to an adult living in the premises with a copy delivered by mail; or

(3) Personally delivered to an adult agent or employee of the defendant with a copy delivered by mail.

(c) If the notice cannot be given by means of personal delivery, or defendant cannot be found, the notice may be delivered by means of:

(1) Certified mail, return receipt requested, at the last known address of the plaintiff or defendant; or

(2) Securely taping a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a Tribal office or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the defendant at the premises.

§ 1018. Forcible Eviction. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

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(a) Where the Court orders an eviction, and the defendant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that order, the defendant or other occupants may be forcibly removed from the premises by a Tribal law enforcement officer. At the hearing where the eviction is ordered, the Court shall inform the defendant that if defendant does not vacate the premises voluntarily by the effective date, defendant and the other occupants will be subject to forcible eviction, and their property will be subject to storage, sale and disposal as set forth in Subsection (c) below.

(b) Following eviction, the Court may allow the GTB Housing Department or the United States government access to any property leased by either of them for purposes of preserving and securing it.

(c) Following forcible eviction of the defendant and/or other occupants, the former occupant's personal property shall be stored by the owner of the premises for at least five days, either on the premises or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within five days, the owner is authorized to sell the property in order to recover those costs. The landlord shall not condition return of the former occupant's personal property on the payment of any costs or fees other than those of removal and storage of those personal possessions. Should the landlord attempt to condition return of personal; possessions on payment of any other cost or fee, the landlord shall forfeit his right to the costs of removal and storage. Upon request by the former occupants, the landlord shall provide them with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in the section shall be construed to prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do so in a manner satisfactory to the owner. If the abandoned property is of cultural, religious, or ceremonial significance, the landlord shall have an affirmative duty to locate next of kin and/or contact the Tribe in order to return these items.

(d) A copy of the police report be attached to executor's report to the court.

§ 1019. No Self-Help Eviction. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

No landlord may compel a tenant to vacate any premises in a forceful fashion or way which causes a breach of the peace. All landlords shall give a notice to quit and obtain a court order as provided in this ordinance.

§ 1020. Security Deposits. [History: Tribal Act #05-23.1501 enacted by Tribal Council on October 19, 2005.]

(a) Security Deposit Limits. A landlord may demand a security deposit of an amount equal to $100 or one month's periodic rent, whichever is greater, which may be in addition to the current month's rent. Additional security deposits may be allowed for special circumstances such as animals or pets or tenant history or prior damages.

(b) Payment of Security Deposit at Termination of Tenancy. The person who is the landlord at the time a tenancy is terminated shall pay to the tenant or former tenant the amount of the security deposit that was deposited by the tenant with the person who was landlord at the time such security deposit was deposited less the value of any damages which any person who was a landlord of such premises at any time during the tenancy of such tenant, has suffered as a result of such tenant's failure to comply with such tenant's obligations. Damages shall not include normal wear and tear.

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(c) Action to Reclaim Security Deposit. Any tenant may bring a civil action in Tribal Court to reclaim any part of his security deposit which may be due.

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GRAND TRAVERSE BAND CODE

Title 14

PUBLIC SAFETY & REGULATION

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Chapter 1
Law Enforcement And Police Force

§ 101. Police Firearm Specifications. [History: Tribal Act #88-620, enacted by Tribal Council on May 18, 1988; Tribal Act #91-922, enacted by Tribal Council on May 21, 1991.]

(a) The Grand Traverse Band of Ottawa and Chippewa Indians specifies that its law enforcement officers who meet the Tribe's requirements for carrying firearms shall carry revolvers of .357 Magnum caliber, with ammunition being any standard factory-produced ammunition generally recognized as suitable for law enforcement purposes in either .357 Magnum caliber or .38 caliber EXCEPT that under no circumstances may officers use "KTW" or other ammunition designed to pierce body armor.

(b) The Grand Traverse Band of Ottawa and Chippewa Indians specifies that its law enforcement officers who meet the Tribe's requirements for carrying firearms shall be allowed to carry 9mm, 40 and/or 45 semi-automatic, with ammunition being any standard factory-produced ammunition generally recognized as suitable for law enforcement purposes in either 9mm, 40 and/or 45 semi-automatic except that under no circumstances may Officers use "KTW" or other ammunition designed to pierce body armor.

§ 102. Deputization Agreement Between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau. [History: March 19, 1997 Deputization Agreement between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau County.]

(a) Definitions. As used in this Agreement:

(1) "L.C.S.D." means Leelanau County Sheriff's Department.

(2) "Tribe" means The Grand Traverse Band of Ottawa and Chippewa Indians.

(3) "County" means Leelanau County.

(4) "M.L.E.O.T.C." means Michigan Law Enforcement Officers Training Council.

(5) "Qualified Officer" means M.L.E.O.T.C. Certified.

(6) "Primary Area" means land within the area bound by Grand Traverse Bay on the east, Putnam Road on the north to Pobuda Road to N. Jacobson Road (Hwy. 633) on the west, and McKeese/ Stallman Road on the south [see map attached to the March 19, 1997 Deputization Agreement between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau County].

(b) Leelanau County Sheriff. The GTB Tribal Police officers are hereby deputized by the Leelanau County Sheriff to make non-Indian criminal arrests in the primary area. The GTB Tribal Police officers are deputized to issue civil infractions on the state and county roadways described in the primary area subject to the following:

(1) Non-Indians shall be cited into state court,

(2) Indians shall be cited into GTB Tribal Court, and

(3) All civil infraction tickets issued by the GTB Tribal Police officers on Peshawbestown Road, Roubal Road, Ninatigo Drive, Kitigan Mikun, Ki-Dah-Keh Mikun and Beems-Kwa-Ma Mikun roads within the interior of the primary area shall be heard in GTB Tribal Court.

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(4) All civil infraction tickets issued by GTB Tribal Police officers on M-22 on the east, Putnam Road on the north to Pobuda Road to N. Jacobson Road (Hwy. 633) on the west, and McKeese/ Stallman Road on the south to non-Indians shall be heard in state court.

(c) Fresh Pursuit.

(1) Any duly authorized Tribal law enforcement officer who:

(A) Observes the commission of a misdemeanor, including traffic infractions and crimes and pursues the offender without unreasonable delay; or

(B) Observes the commission of a felony or has reasonable grounds to suspect a felony has been committed, and pursues the offender without unreasonable delay, shall be authorized to continue that pursuit across the boundaries of the primary area until the offender is apprehended, at which time the pursuing officer shall proceed as though the boundary had never been crossed and may issue such citations or effect such arrests as are dictated by the situation.

(2) As soon as it reasonably appears that the fresh pursuit of a suspect will require leaving the primary area, the Tribal officer shall make every attempt to promptly notify L.C.S.D. law enforcement authorities of the pursuit and to request their cooperation and assistance.

(3) The fresh pursuit conducted under this Section shall conform with the policy and procedure of the Sheriff's Department regarding high speed pursuit.

(d) Qualifications and Training. All personnel furnished by the parties pursuant to this Agreement shall be full-time commissioned law enforcement officers, certified by M.L.E.O.T.C. The Tribe shall furnish a list of all qualified GTB Tribal Police officers on January 2nd of each year.

(e) Operational Plan. Any suspects arrested pursuant to this Agreement will be booked and lodged in the Leelanau County Jail, providing space is available.

(f) Costs.

(1) The Tribe will contract with L.C.S.D. for the lodging of prisoners within the jurisdiction of the Tribe.

(2) The Tribe shall bear the expense of testifying in State Court when acting pursuant to state law.

(g) Arrests. The L.C.S.D. agrees that they will make arrests for the Tribe outside Indian country, pursuant to a valid Tribal Court warrant, and the Tribe agrees that they will make arrests in Indian country for the L.C.S.D. pursuant to a valid State Court warrant.

(h) Search Warrants.

(1) Court Rules. The provisions of Michigan Court Rule 2.615, Enforcement of Tribal Judgments, and Chapter 10 of the GTB Court Rules, Rules Regarding Enforcement and Recognition of Foreign Judgments, shall apply to this Agreement.

(2) State Warrants.

(A) County law enforcement officers shall present search warrants authorizing the search for evidence located on the Tribe's reservation and Indian country (in accordance with the Tribal code) to Tribal law enforcement authorities for execution.

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(B) The Grand Traverse Band Police Department agrees to cooperate in the execution of properly issued state search warrants within the reservation and Indian country and to observe the requirements of State and Federal law in doing so.

(C) L.C.S.D. law enforcement officers may, at the invitation of Tribal authorities, accompany Tribal officers when a state warrant is executed.

(i) Tribal Warrants.

(1) Tribal law enforcement officers shall present search warrants authorizing the search for evidence located off the Tribe's reservation and Indian country to County law enforcement authorities for execution. The Leelanau County Prosecuting Attorney agrees to review and prepare search warrants for off-reservation searches.

(2) The L.C.S.D. agrees to cooperate in the execution of Tribal search warrants off the reservation and Indian country and to observe the requirements of State, Tribal and Federal law in doing so.

(j) Immunities.

(1) All the immunities from liability and exemptions from laws, ordinances and regulations which Tribal law enforcement officers deputized by the Sheriff, pursuant to the authority of this written instrument and M.C.L.A. 51.70, have in their own Tribal jurisdiction shall be effective in the state's jurisdiction in which the Tribal law enforcement officers are giving assistance unless otherwise prohibited by law.

(2) The provisions of 25 U.S.C. § 450f and the application of the Federal Tort Claims Act applies to acts performed by GTB Tribal Police officers.

(k) Hold Harmless.

(1) The Sheriff and Tribe shall waive any and all claims against each other which may arise out of their activities outside their respective jurisdictions under this Agreement unless such claims are proximately caused by the gross negligence or willful misconduct of the other party or its law enforcement officers.

(2) The Sheriff and Tribe shall be responsible for all liability of whatever nature arising from the acts of its own law enforcement officers and employees to the extent provided by law. Under no circumstances shall either the County or Tribe be held liable for the acts of employees of the other party performed under color of this Agreement.

(l) Indemnification. The Tribe shall indemnify the Sheriff for all claims, judgments, or liabilities by third parties for property damage, personal injury or civil liability which may arise out of the activities of the Tribal law enforcement officers pursuant to this Agreement.

(m) Insurance.

(1) The Tribe agrees to maintain and name the Sheriff as insured on an insurance policy in the amount of $10,000,000 per incident insuring against claims for liability and shall maintain the policy in full force and effect during the Agreement. The Tribe shall provide a copy of the policy to the Sheriff by January 2nd of each year.

(2) The Tribe shall submit to the Sheriff proof of adequate insurance covering each of its Tribal law enforcement officers pursuant to this Agreement by January 2nd of each year.

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(3) The Tribe shall submit to the Sheriff proof of adequate insurance covering the Tribe and each of its law enforcement officers commissioned pursuant to this Agreement by January 2nd of each year.

(4) The provisions of 25 U.S.C. § 450(a)-(g) "self-governance contracting" and the application of the Federal Tort Claims Act shall apply to the extent provided by law to the actions of the Tribal law enforcement officers under this Agreement. See: Pub. L. No. 101-512, Title III, § 314, 104 Stat. 1959 (codified at 25 U.S.C. § 450f notes). In Comes Flying v. U.S. through Bureau of Indian Affairs, 830 F.Supp. 529, 530(1993).

(n) Costs. The Sheriff and Tribe shall each assume responsibility for all costs incurred by their own officers under this Agreement, except as otherwise provided.

(o) Oversight Committee.

(1) A committee consisting of Tribal and Sheriff law enforcement officers shall review activities and method of performance undertaken pursuant to this Agreement.

(2) The Tribe's Chief of Police and the County Sheriff shall serve as co-chairmen and shall jointly set dates and places for meetings and shall jointly preside over meetings.

(3) This committee may recommend to the signatories of this Agreement any amendments for consideration by the parties. This committee shall further review, in the first instance, any dispute raised by either party or by third parties, relating to this Agreement.

(4) The committee co-chairman shall invite representatives of their respective courts and prosecutors to attend the meetings. The committee shall meet at least quarterly or more frequently at the call of either the Tribe's Chief of Police or the County Sheriff to discuss the status of this Agreement and invite other law enforcement or other officials to attend as necessary.

(p) Duration of Agreement. This Agreement shall remain in full force and effect until and unless terminated by either party as provided in this Agreement.

(q) Suspension of Agreement.

(1) If any provision of this Agreement is violated by the Sheriff or any of his agents, the Tribal Council may suspend the Agreement on 10 days' written notice to the Sheriff. The suspension shall last until the Tribal Council is satisfied that the violation has been corrected and will not recur.

(2) If any provisions of this Agreement is violated by the Tribe or any of its agents, the Sheriff may suspend the Agreement immediately and terminate the deputy status of the GTB Tribal Police officers at will or upon revocation of this Agreement. The suspension shall last until the Sheriff is satisfied that the violation has been corrected and will not recur.

(3) The Sheriff may exercise his power of suspension to suspend an individual GTB Tribal Police officer without suspending this Agreement.

(r) Revocation of Agreement. The Tribe may revoke this Agreement at any time by formal action upon 10 days' written notice. The Sheriff may revoke this Agreement at any time.

(s) Amendments. This Agreement shall not be amended except by an instrument in writing executed by signatories below and attached to this Agreement.

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(t) Saving.

(1) This Agreement, or any commission issued pursuant to it, shall not confer any authority on a state court or other state or county authority which that court or authority would not otherwise have.

(2) Nothing in this Agreement shall be construed to cede any jurisdiction of either of the parties, to waive any immunities, to modify the legal requirements for arrest or search or seizure or to otherwise modify the legal rights of any person, to accomplish any act in violation of state, federal, or Tribal law or to subject the parties to any liability to which they would not otherwise be subject to by law.

(u) Severability. The provisions of this Agreement are severable and should any provision be held invalid or unenforceable, the remainder of this Agreement remains in effect unless terminated as provided in this Agreement.

(v) Notice.

(1) Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and sent by registered or certified mail.

(2) In the case of the Sheriff, notices shall be sent to:

Leelanau County Sheriff
201 Chandler
Leland, Michigan 49654

(3) In the case of the Tribe, notices shall be sent to:

Chief of Police
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N. West Bayshore Drive
Suttons Bay, Michigan 49682

(w) Repealers. This Agreement constitutes the entire Agreement between the parties.

(x) The effective date of this Agreement shall be the 19th day of March, 1997.

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Chapter 2
Fire Code

§ 2.01. Title; purpose; authority. [History: Enacted by Tribal Council on August 30, 2017.]

(a) This ordinance shall be known as the Grand Traverse Band Fire Code.

(b) The purpose of this ordinance is to establish a Fire and Rescue Department, to prescribe regulations governing conditions that present the risk of fire or explosion to the detriment of life and property, to provide for the issuance of permits and the collection of fees, and to provide enforcement of this Code and penalty for violations.

(c) The Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians adopts this ordinance pursuant to its powers under Article IV, Section 1, of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 2.02. Establishment of Fire and Rescue Department. [History: Tribal Act #93-11.51, enacted by Tribal Council on June 22, 1993; as amended by Tribal Council on August 30, 2017.]

The Tribal Council, pursuant to Article IV, Sections 1(a) and (b) of the Tribal Constitution, hereby establishes a Fire and Rescue Department to be known as the "Grand Traverse Band Fire and Rescue Department".

§ 2.03. Fire Chief. [History: Tribal Act #93-11.51, enacted by Tribal Council on June 22, 1993; as amended by Tribal Council on August 30, 2017.]

(a) The Grand Traverse Band Fire and Rescue Department shall be headed by a Fire Chief, to be appointed by the Tribal Council, and who shall be under the direction and supervision of the Tribal Manager.

(b) The authority of the Fire Chief shall include the authority to issue directives to individuals employed by the Grand Traverse Band, its enterprises, businesses, and subsidiaries, to act in compliance with this fire code. Individuals responsible for compliance with this code who fail or refuse to comply with directives issued under this section shall be issued a citation pursuant to Section 2.06 of this ordinance.

§ 2.04. Adoption of the National Fire Protection Association Fire Code. [History: Enacted by Tribal Council on August 30, 2017; and amended by Tribal Council motion at a Tribal Council Regular Session on June 19, 2019.]

(a) As to all structures certified for occupancy prior to August 30, 2017, this ordinance adopts by reference the 2000 edition of the International Fire Code, except to the extent that its contents are modified in this Code.

(b) As to all structures certified for occupancy after August 30, 2017, this ordinance adopts by reference the NFPA 1, Fire Code 2015 edition, and documents listed in Chapter 2 thereof, except to the extent that its contents are modified in this Code.

§ 2.05. NFPA 1 - Insertions, deletions, modifications; interpretation and application. [History: Enacted by Tribal Council on August 30, 2017.]

(a) For purposes of adopting the NFPA 1, the Tribal Council replaces certain phrases for applicability to

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the Band:

(1) "Governing Authority" shall mean the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.

(2) "Authority Having Jurisdiction" or "AHJ" shall mean the office of the Fire Chief of the Grand Traverse Band Fire and Rescue Department.

(3) "A court of law" or "Court" shall mean the Tribal Court of the Grand Traverse Band of Ottawa and Chippewa Indians.

(b) Interpretation and application of the NFPA 1 pursuant to its adoption by this ordinance shall be to give full effect to its terms and provisions and full exercise of self-regulation and self-governance by the Grand Traverse Band.

§ 2.06. Civil and criminal penalties. [History: Enacted by Tribal Council on August 30, 2017.]

(a) A person may be liable for:

(1) Violating or failing or refusing to comply with any provision of this code or standard adopted hereby;

(2) Failing or refusing to comply with an order issued under the authority of this code;

(3) Building in violation of this code, or of any detailed statement of specifications or plans submitted and approved under this ordinance;

(4) Failing or refusing to operate in accordance with any certificate, permit, or approval issued under the authority of this ordinance, and from which no appeal has been taken;

(5) Failing to comply with an order following appeal to the Tribal Court as may affirm, amend, or modify a certificate, permit or approval issued under the authority of this ordinance.

(b) A person who is not subject to the criminal jurisdiction of the Grand Traverse Band shall be liable for a civil penalty of up to $5,000 for engaging in the activity described Subparagraphs (a)(1) through (5) above. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, nor shall it be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions or violations are maintained shall constitute a separate infraction subject to a separate civil penalty.

(c) A person who is subject to the criminal jurisdiction of the Grand Traverse Band may be subject to civil liability as described in Paragraph (b) above or may be prosecuted for a misdemeanor for engaging in the activity described in Subparagraphs (a)(1) through (5). The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, nor shall it be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions or violations are maintained shall constitute a separate infraction or misdemeanor subject to a separate penalty.

(d) An action for civil or criminal liability under this ordinance shall be brought in Tribal Court by the Office of the Tribal Prosecutor, at the discretion of the Prosecutor.

§ 2.07. Modification of prior resolutions and policies. [History: Enacted by Tribal Council on August 30, 2017.]

Adoption of this ordinance modifies Resolution 83-120 and Resolution 01-19.1006 to the extent that the

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provisions herein are in conflict or supersede the provisions of those resolutions addressing fire safety. The provisions of those resolutions not in conflict with this ordinance remain in full force and effect.

§ 2.08. Waivers. [History: Enacted by Tribal Council on August 30, 2017.]

The Tribal Council, in consultation with its business interests, the Fire Chief, and the Director of Public Safety may grant waivers of the application of this ordinance for certain land parcels. A waiver under this section shall specifically identify the application of fire and safety codes applied in lieu of this ordinance. Such codes may be those of a municipality in which the land parcel in question is located.

A waiver under this section shall not waive the provisions of civil and criminal penalties, but shall include such penalties for violation of any fire and safety code the Tribal Council directs to apply to a land parcel in lieu of this ordinance.

§ 2.09. Severability. [History: Enacted by Tribal Council on August 30, 2017.]

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Tribal Council declares that it would have passed this ordinance, and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

§ 2.10. Effective date. [History: Enacted by Tribal Council on August 30, 2017.]

This ordinance shall be effective upon the date of its adoption by the Tribal Council.

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Part 3
Animal Control

§ 301. Purpose. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

Deeming it advisable in the interest of protecting the public health, safety, convenience and welfare and to provide for the orderly and uniform administration of the dog licensing provisions of the State of Michigan and in particular Act 339 of the Public Acts of 1919, as amended, being Sections 287.261-287.293 of the Compiled Laws of 1948 (MSA Sections 12.511-12.543), and to create the position of Animal Control Officer and define his or her duties, authority and responsibilities, and to regulate and control the conduct, keeping and care of dogs and certain other animals, livestock and poultry; the Grand Traverse Band Reservation does hereby adopt the following ordinance.

§ 302. Definitions. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

For the purposes of this ordinance, the following terms shall have the following meanings respectively designated for each:

(a) "animal" - unless otherwise stated, the word "animal" as used in this ordinance shall include birds, fish, mammals and reptiles.

(b) "livestock" means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, hogs, swine and fur-bearing animals being raised in captivity.

(c) "poultry" means all domestic fowl, ornamental birds and game birds possessed or being reared under authority of a breeder's license pursuant to Act 191 of the Public Acts of 1919, as amended, being Sections 317.71 to 317.85 of the Compiled Laws of 1948 (MSA Sections 13.1271-13.1285).

(d) "police officer" means any person employed or elected by the people of the State of Michigan, or by any city, village, county, township, or Tribal Council whose duty it is to preserve peace or to make arrest or to enforce the law, and includes game, fish or forest fire wardens and members of the State Police, Tribal Police and Conservation Officers.

(e) "animal control officer" means any person employed by the Tribe for the purpose of enforcing this ordinance or state statutes pertaining to dogs and other animals as well as persons or deputies employed by the Tribe to act in the Animal Control Division.

(f) "owner" - the term "owner" and "persons owning premises" shall mean both the owner of title of record and those occupying or in possession of any property or premises. The term "owner" when applied to the proprietorship of an animal means every person having a right of property in the animal, an authorized agent of the owner, and every person who keeps or harbors the animal or who has it in his or her care, custody or control, and every person who permits the animal to remain on or about the premises occupied by him or her.

(g) "person" - the word "person" shall include state and local officers and employees, individuals, corporations, CO-partnerships and associations.

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(h) "kennel" - the term "kennel" shall mean any establishment wherein or whereon dogs are kept for breeding, sale, leasing, trading or sporting purpose. Any premise, building and/or structure within the boundaries of the GTB Reservation; wherein or whereon more than three dogs or other mammals in any combination are kept, except a duly licensed pet shop, shall also be deemed to be a kennel except as provided in § 304(h) of this ordinance.

(i) "rabies suspect animal" - the term "rabies suspect animal" shall mean any animal which has bitten a human, or any animal which has been in contact with or been bitten by a rabid animal, or any animal which shows symptom suggestive of rabies.

(j) "day" shall mean working days which shall include Saturday. It shall not include Sundays or holidays.

(k) "tribal Council" shall mean the Grand Traverse Band Tribal Council.

§ 303. Animal Control Officer: Duties, Authority and Responsibilities. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) An Animal Control Officer shall be appointed by the Captain of Police and shall serve as Director of the Animal Control Department.

(b) In lieu of all fees and other remuneration under the statutes of this State, the Animal Control Officer, his or her deputies and assistants, except census takers, at a future date may be paid a salary as established and determined by appropriate resolution of the Tribal Council.

(c) The Animal Control Officer shall fulfill the following duties:

(1) The Animal Control Officer shall promptly seize, take up and place in the animal shelter all dogs or other animals, livestock, or poultry found running at large or being kept or harbored any place within the Reservation contrary to the provisions of this ordinance or the statutes of the State.

(2) The Animal Control Officer shall be properly deputized as a peace or police officer for the purposes of this ordinance and shall be legally authorized to have the power and it shall be his or her duty to issue appearance tickets, citations or summonses to those persons owning, keeping or harboring dogs contrary to the provisions of this ordinance.

(3) It shall be the duty of the Animal Control Officer to see that all impounded dogs and other animals are destroyed in a humane manner or otherwise released to an appropriate person in accordance with the law and the rules and regulations of the animal shelter.

(4) The Animal Control Officer shall promptly investigate all animal bite cases involving human exposure and shall search out and attempt to discover the animal involved and shall either impound or quarantine it for examination for disease in accordance with the applicable provisions of this ordinance and/or the statutes of the State. He or she shall also be obliged to seize and impound any rabies suspect animal.

(5) The Animal Control Officer shall assume the duty (provided in Section 316 of Act 339 of the Public Acts of 1919, being Section 287.276 of the Compiled Laws of 1948, (MSA Section 12.526, as amended), to determine and locate all unlicensed dogs, to list such dogs and to deliver such list to the Prosecuting Attorney for the necessary proceedings as provided by the ordinance and/or statutes of the State.

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(6) The Animal Control Officer, his or her deputies or assistants are hereby authorized and empowered, in accordance with the provisions of this ordinance and an appropriate search warrant, to enter upon private premises for the purpose of inspecting same for the purpose of determining the harboring, keeping and possessing of any dog or dogs for the specific purpose of determining if the owner(s) of said dogs have complied with the appropriate provisions of the ordinance and to apprehend and take with him or her any dogs for whom no license has been procured in accordance with this ordinance or for any other violation thereof. The provisions of this subsection shall specifically include but not to be limited to, investigation of, or seizure for, cruelty to animals.

(7) The Animal Control Officer shall have the right to inspect any kennel, with a license which has been issued pursuant to this ordinance or the statutes of the State, and shall have the duty to suspend said license if, in his or her opinion, conditions exist which are unhealthy or inhumane to the animals kept therein pending correction of such conditions, and further shall have the duty to revoke said license if such conditions are not corrected within a reasonable period of time.

(8) The Animal Control Officer shall have the right to investigate complaints of dogs or other animals alleged to be dangerous to persons or property and shall have the right to seize, take up and impound such animals.

(9) The Animal Control Officer shall have the right to investigate the complaints of cruelty to dogs or other animals, livestock or poultry and shall have the right to seize, take up and impound any dog or other animal, livestock or poultry which has been subject to such cruelty.

(10) The Animal Control Officer shall have such other duties relating to enforcement of this ordinance as the GTB Tribal Council may from time to time provide.

(d) It shall be the further duties of the Animal Control Officer, his or her deputies or assistants, to enforce the provisions of this ordinance and the statutes of the State pertaining to dogs and other animals, and may make complaint to the appropriate Tribal Court or other appropriate court in regard to any violation thereof.

(e) The Animal Control Officer, his or her deputies or assistants shall dispose of any animal, livestock or poultry seized, taken up and/or impounded as provided for herein; in accordance with the provisions of this ordinance and/or the statutes of the State.

(f) All suspensions and/or revocations of licenses and all seizures for cruelty or dangerousness as provided herein, shall be in accordance with such rules and regulations as are adapted from time to time by the GTB Tribal Council.

§ 304. Licensing and Vaccination. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) It shall be unlawful for:

(1) Any person to own any dog six months old or over unless the dog is licensed in accordance with Tribal law or the law of the State of Michigan, or to own any dog six months old or over that does not at all times wear a collar with a tag approved by the Director of Michigan Department of Agriculture attached, as hereinafter provided, except when engaged in lawful hunting accompanied by its owner; or

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(2) Any owner of any female dog to permit the female dog to go beyond the premises of such owner when she is in heat, unless the female dog is held properly in leash, or for any person except the owner, to remove any collar and/or license tag from a dog; or

(3) Any owner to allow any dog, except working dogs such as leader dogs, farm dogs, hunting dogs and other dogs, when accompanied by their owner while actively engaged in activities for which such dogs are trained, to stray unless held properly in leash.

(b) Any person who owns, keeps or operates a kennel may in lieu of individual licenses required under this ordinance and under the laws of the State of Michigan, a kennel license entitling him or her to own, keep or operate such kennel in accordance with the applicable laws of the State.

(c) Any person who, at any one time, owns more than three dogs in any combination, except a duly licensed pet shop, at any single location within the boundaries of the GTB Reservation, shall, on or before March 1st of the year following such ownership, obtain a kennel license if the person qualifies under Act 339, Public Acts of 1919, as amended.

(1) This section shall not apply to a litter of puppies when with the mother of such, so long as said dogs are less than six months of age.

(2) Failure to obtain such kennel license shall be punished as set forth in the penalty provision of this ordinance.

§ 305. Confinement. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) Any dog or other animal kept as a pet that shall bite a person, animal, or livestock shall be securely confined by the owner thereof inside an appropriate building or enclosure for a minimum period of 10 days following the biting of such person, animal, or livestock.

(1) In the event that the owner of such animal shall fail to securely confine the animal for such period of time, then in that event, the Animal Control Officer, his or her deputies or assistants, may take possession and custody of such animal, confine him or her at the animal shelter until the expiration of said ten-day period and upon satisfactory evidence that the animal is not suffering from rabies. Said animal shall be kept at the animal shelter at the expense of the owner thereof in the event that the person charged with the duty to securely confine said animal as aforesaid shall fail to do so.

(2) Any dog or other animal running loose after biting a person, animal or livestock, and whose owner cannot be determined, shall be confined for a period of 10 days at the animal shelter in accordance with the provisions of this section, and thereafter disposed of in accordance with the provisions of this ordinance, or such regulations as are in effect at the animal shelter.

(b) Any other animal not kept as a pet, including wild animals, which shall bite a human or animal, shall, if located, be confined for the required 10 days at the animal shelter or other suitable location.

(c) Every dog and other animal shall at all times between sunset and sunrise of the following day be confined upon the premises of its owner except when such dog or other animal is otherwise under the reasonable control of the owner.

§ 306. Animal Shelter and Impoundment. [History: Animal Control ordinance adopted by Tribal

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Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) All dogs found running at large shall be seized by the Animal Control Officer, his or her deputies or assistants, or other peace officers, and impounded for a period of not less than five days, and may thereafter be sold or disposed of if not claimed by the owner.

(b) When dogs are found running at large, and their ownership is known to the Animal Control Officer, his or her deputies or assistants, or other peace officers, such dog need not be impounded but the Animal Control Officer, his or her deputies or assistants, or other peace officers may, at their discretion, cite the owner of such dog to appear in court to answer charges of violation of this ordinance.

(c) Immediately upon impounding a dog or other animal, the Animal Control Officer shall make every reasonable effort to notify the owner of such dog or other animal so impounded and inform such owner of the conditions whereby custody of such dog or other animal may be regained pursuant to the regulations for the operation of the animal shelter.

§ 307. Killing and Seizing. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) Any person may kill any dog or animal which he sees in the act of pursuing, attacking or about to attack, or wounding any livestock or poultry or attacking persons, and there shall be no liability on such person in damages or otherwise, for such killing.

(1) Any dog or other animal that enters any field or enclosure which is owned or leased by a person producing livestock or poultry, unaccompanied by his or her owner, shall constitute a private nuisance, and the owner or lessee of such field or other enclosure, or his or her agent or servant, may kill such dog or other animal while it is in the field or other enclosure without liability for such killing.

(2) In no event shall the provisions of this section exonerate a person from compliance with the criminal laws of this State, including, by way of example, the safe discharge of firearms.

(b) It shall be lawful for any person to seize any dog or other animal running at large in violation of this ordinance and to turn said dog or other animal over to the Animal Control Officer, his or her deputies or assistants.

§ 308. Cruelty to Animals. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

It shall be unlawful for:

(a) Any owner of any dog, livestock or poultry to fail to provide any dog, livestock or poultry with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and to withhold and not to give humane care and treatment.

(b) No person shall beat, cruelly treat, torment, overload, overwork or otherwise abuse any dog, livestock or poultry or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between

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animals or between animals and humans.

(c) The owner of any dog, animal, livestock or poultry shall not abandon any such dog, animal, livestock or poultry for a period of longer than 48 hours.

(d) No person shall crop a dog's ears, except a licensed veterinarian, who will issue a signed certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation.

(e) Should an operator of a motor vehicle strike a domestic animal, he shall stop immediately and render such assistance as may be possible, and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.

§ 309. Enumeration of Certain Violations and Procedures Therefore. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) It shall be unlawful for:

(1) Any dog of any age, licensed or unlicensed, wearing a collar or not wearing a collar, to run at large, provided, however, that a dog engaged in hunting need not be leashed when under the reasonable control of its owner.

(2) Any dog, at any age, licensed or unlicensed, wearing a collar or not wearing a collar, except a leader dog accompanied by its owner, to be within the confines of any public park when such park, by appropriated designation at its entrance, prohibits dogs.

(3) Any dog, at any time, licensed or unlicensed, to destroy property, real or personal, or to trespass in a damaging way on property of persons other than the owner.

(4) Any dog or other animal at any time, licensed or unlicensed, to attack or bite a person.

(5) Any dog to show vicious habits and molest passersby when such persons are lawfully on the public highway or right-of-way.

(6) Any person to own any dog which, by loud or frequent barking, howling or yelping, is a nuisance in the neighborhood in which such dog is kept, possessed or harbored.

(7) Any livestock or poultry to run at large unaccompanied by its owner upon the premises of another or upon any public street, lane, alley or other public ground in the county unless otherwise specifically allowed.

(8) Any person to remove a collar or tag from any dog or other animal without the permission of its owner or to decoy or entice any dog or other animal out of an enclosure or off the property of its owner, or to seize, molest or tease any dog or other animal while held or led by any person or while on the property of its owner.

(b) In the event of any such violations or of a violation of any other provision of this ordinance or of the laws of the State, the Animal Control Officer, his or her deputies or assistants or other peace officer may issue an appearance ticket, citation or summons to the owner of said dog, animal, livestock or poultry, summoning them to appear before a Tribal Court or other appropriate Court within the Reservation to answer the charges made in violation of this ordinance.

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(1) The said Animal Control Officer, his or her deputies or assistants or other peace officer may sign a complaint before said court for violation of a warrant and make arrest of the person to whom said violation is charged and bring him or her before the court to answer the charges.

(2) The court may in such case, at its discretion, and upon a finding of guilty, assess the penalties in accordance with the penalty provision of this ordinance.

(c) In the event of any such violations or of a violation of any other provision of this ordinance or of the laws of the State, an Animal Control Officer, his or her deputies or assistants or other peace officer of any other person may proceed to obtain authorization of the Prosecuting Attorney and make complaint before a Tribal Court or other appropriate court within the county and obtain the issuance of a summon similar to that provided in Act 339 of the Public Acts of 1919, being Section 287.280 of the Compiled Laws of 1948 (MSA Section 12.530), as amended, to show cause why such dog, animal, livestock or poultry should not be killed.

(1) Upon such hearing the judge may either order the dog, animal, livestock or poultry killed, may order such dog, animal, livestock or poultry confined to the premises of the owner, or may make such other order regarding the dog, animal, livestock or poultry as it deems proper and necessary under the circumstances, in addition to any of the penalties enumerated herein.

(d) Costs, as in civil cases, shall be taxed against the owner of the dog, animal, livestock or poultry and collected by the court from the person complained against upon a finding of guilty. The provisions of this paragraph shall be in the alternative to the provisions for violations set forth in the preceding paragraph and the Animal Control Officer, his or her deputies or assistants or other peace officer may, at his or her direction, proceed under either section.

§ 310. Penalty. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a civil infraction and upon conviction thereof, shall be punished by a fine of not more than $100.

§ 311. Preservation of Certain Rights. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) Nothing in this ordinance shall be construed to prevent the owner of a licensed dog from recovery in an action of law from any peace officer or any other person, except as herein provided.

(b) Nothing in this ordinance shall be construed as limiting the common law liability of the owner of a dog or other animal for damages committed by said dog or other animal.

§ 312. Licensing Authority Records and Duties. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

In all prosecutions for violation of this ordinance, the records of the Licensing Authority, or lack of same, showing the name of the owner and the license number to whom any license was issued, and the license tag affixed to the collar or harness of the dog showing a corresponding number, shall be prima facie evidence of ownership or non-ownership of any dog and of issuance or non-issuance of a dog license or tag.

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§ 313. Census. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) It shall be the duty of the Animal Control Officer annually to make a census of the number of dogs owned by all persons on the Grand Traverse Band Reservation in accordance with the state law.

(1) The Animal Control Officer is hereby empowered to employ whatever personnel he or she reasonably believes necessary to conduct his or her census.

(2) Such personnel shall receive for their services in listing such dogs such sum as shall be set from time to time by the GTB Tribal Council.

(b) The duties and obligations herein imposed upon the respective designated officials may be delegated to some other appropriate person or persons by each of said officials with like force and effect.

§ 314. Construction. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

(a) When not inconsistent with the context, words used in the present tense include the future. Words in the singular include the plural and words in the plural include the singular. Masculine shall include the feminine and neuter. The word "shall" is always mandatory and not merely directive. Words or terms not defined herein shall be interpreted in the manner of their common meaning. Headings shall be deemed for convenience only and shall not limit the scope of any section of this ordinance.

(b) The regulations of this ordinance are minimum standards supplemental to the rules and regulations duly enacted by the Michigan Department of Health and to the laws of the State of Michigan relating to public health. If any part of this ordinance shall be held void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

§ 315. Repeal. [History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.]

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

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Chapter 4
Liquor Control

§ 401. Short Title. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

This ordinance may be cited as the "Liquor Ordinance" of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 402. Authority. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

As required by 18 U.S.C. § 1161, this ordinance is in conformity with relevant provisions of State law and is enacted pursuant to Article IV of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

§ 403. Interpretation. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

(a) This ordinance shall be deemed an exercise of the police and regulatory powers of the Grand Traverse Band of Ottawa and Chippewa Indians in order to promote Tribal self-determination and to protect the public welfare, and all provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

(b) Nothing in this ordinance may be construed as a waiver of Tribal sovereign immunity.

§ 404. Definitions. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

In this ordinance, unless the context otherwise requires:

(a) "alcoholic beverage" means any of the following:

(1) Any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary, patented, and by whatever name called, containing 0.5% or more alcohol by volume, which is commonly used or reasonably adopted to use for beverage purposes;

(2) Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or other cereal in potable water;

(3) Any product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks;

(4) Any beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink;

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(5) Any drink or similar product marketed as a wine cooler that contains less than 7% alcohol by volume, consists of wine or cider and plain, sparkling or carbonated water, and contains any one or more of the following: (a) nonalcoholic beverages; (b) flavoring; (c) coloring materials; (d) fruit juices; (e) fruit adjuncts; (f) sugar; (g) carbon dioxide; (h) preservatives.

(b) "liquor" means any alcoholic beverage.

(c) "person" means a natural person, firm, association, corporation, or other legal entity.

(d) "premises" means specified locations within Tribal lands where alcoholic beverages may be sold as described in a license issued by the Tribal Council.

(e) "secretary" means the Secretary of the United States Department of the Interior.

(f) "state" means the State of Michigan, which regulates matters pertaining to the consumption, possession, delivery and/or sale of alcoholic beverages within the State through its Liquor Control Commission.

(g) "tribal Council" means the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.

(h) "tribal lands" means:

(1) Land within the limits of the Grand Traverse Band of Ottawa and Chippewa Indians' Reservation, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and/or

(2) Land over which the Grand Traverse Band of Ottawa and Chippewa Indians exercises governmental power and which is either held in trust by the United States for the benefit of the Grand Traverse Band, or held by the Tribe or by one of its members subject to restriction by the United States against alienation.

(i) "Tribal license" means an official action by the Tribal Council which authorizes the manufacture and/or sale of alcoholic beverages for consumption either on the premises and/or away from the premises. The manufacture, sale and/or delivery of alcoholic beverages intended for consumption away from Tribal lands must also comply with relevant provisions of State law.

(j) "Tribal representative" means the Tribal Manager, a program director, or manager of a subsidiary enterprise of the Tribe.

(k) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(l) "vendor" means a person licensed under this ordinance to sell alcoholic beverages, or a person employed by a vendor to do so.

§ 405. Public Policy Declared. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

(a) It is the policy of the Tribe that no manufacture, sale, delivery, or importation of alcoholic beverages shall occur in Tribal lands unless such manufacture, sale, delivery or importation is by a person licensed under this ordinance to do so, or by prior written order of the Tribal Council.

(b) All alcoholic beverages for sale, use, storage, or distribution in Tribal lands shall originally be

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purchased by and imported into Tribal lands by a person licensed under this ordinance to do so, unless such alcoholic beverages are manufactured under appropriate Tribal license within the Tribal lands, or by prior written order of the Tribal Council.

(c) This section shall not apply in the case of alcoholic beverages brought into Tribal lands personally by a person aged 21 years or older to purchase or manufacture alcoholic beverages for personal or household use.

§ 406. General Provisions. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

(a) Except in compliance with this ordinance, no person shall sell, trade, transport, manufacture, use or possess any alcoholic beverage or any other substance whatsoever which is capable of producing alcohol or other intoxication, intended for consumption on the premises, nor may any person aid or abet another person in doing any of the foregoing.

(b) No vendor shall permit any person under the age of 18 on premises licensed under this ordinance, unless accompanied by an adult who is the legal guardian or parent of the minor.

(c) No vendor shall sell, serve or allow to be consumed on premises licensed under this ordinance, alcoholic beverages other than during the hours permitted by its license.

(d) Except in compliance with this ordinance, no person shall sell, trade, transport, manufacture, use or possess any alcoholic beverage, or any other substance whatsoever which is capable of producing alcohol or other intoxication, intended for distribution away from premises, nor may any person aid or abet another person in any of the foregoing.

(e) It shall be a violation of this ordinance for any person, by himself or by his agent or employee, to manufacture, sell, offer for sale, or possess any alcoholic beverage which is adulterated or misbranded or any alcoholic beverage in bottles which have been refilled. For the purposes of this section:

(1) Alcoholic beverages shall be deemed adulterated if they contain any liquid or other ingredient not placed there by the original manufacturer or bottler, other than by order of a consumer for immediate consumption on the premises;

(2) Alcoholic beverages shall be deemed misbranded when not plainly labeled, marked or otherwise designated;

(3) Alcoholic beverages bottles shall be deemed to be refilled when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer.

(4) This Subsection 406(e) does not apply to beer containers. [cf. MCL 436.2005(5)]

(f) It shall be a violation of this ordinance for any vendor to sell or furnish any alcoholic beverage to a person unless that person has attained 21 years of age.

(1) No vendor may knowingly sell or furnish any alcoholic beverage to a person who is younger than 21 years of age, or fail to make diligent inquiry as to whether the person is 21 years of age.

(2) A suitable sign which describes this section and the penalties for violating this section shall be posted in a conspicuous place in each room where alcoholic beverages are sold.

(g) It shall be a violation of this ordinance for any vendor to sell or furnish any alcoholic beverage to any

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person who is visibly intoxicated at the time, or who is known to the vendor to be a habitual drunkard.

(h) It shall be a violation of this ordinance for any person younger than 21 years of age to purchase, attempt to purchase, possess or consume any alcoholic beverage, or for such a person to misrepresent his age for the purpose of purchasing or attempting to purchase such alcoholic beverage.

(i) Upon attempt to purchase any alcoholic beverage on premises licensed under this ordinance by any person who appears to the vendor to be younger than 21 years of age, that vendor shall demand, and the prospective purchaser upon such demand shall display, satisfactory evidence that he is of legal age. It shall be a violation of this ordinance for any person to present to any vendor falsified evidence as to his age.

(j) No person under this ordinance shall make any delivery of any alcoholic beverage outside the premises described in the license, unless the license permits distribution of alcoholic liquor for consumption away from the premises.

(k) No person, directly or indirectly, himself or herself or by his or her clerk, agent or employee shall manufacture, manufacture for sale, sell, offer or keep for sale, barter, furnish, or import, import for sale, transport for hire, or transport, or possess any alcoholic beverage unless that person complies with this ordinance.

(l) In order to retain its alcoholic beverage license under this ordinance, any Tribal operation is required to comply with other applicable Tribal law, as well as with the provisions of this ordinance.

§ 407. Tribal Alcoholic Beverage Licenses. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

(a) Upon written authorization by a Tribal representative, the Tribal Council may issue a license authorizing:

(1) The manufacture and/or sale of alcoholic beverages intended solely for consumption on the premises; and/or

(2) The manufacture and/or sale of alcoholic beverages intended solely for consumption away from the premises.

(b) All such license applications must set forth the purpose for which the license is sought, together with a description of the premises upon which the alcoholic beverage manufacture and/or sales are proposed to take place.

(c) In its sole discretion, the Tribal Council shall have the power and authority to determine the numbers and types of alcoholic beverage licenses to be issued pursuant to this ordinance.

§ 408. Complaint of Violation. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

(a) Any complaint regarding violation of any provision of this ordinance shall be referred to the Tribal Prosecutor, who may cause such complaint to be placed in writing and served personally or by registered mail upon the licensee or other person against whom that complaint is made.

(b) A hearing on any such complaint shall be held by the Tribal Court not less than seven days nor more

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than 28 days after service of the complaint upon the licensee or other person against whom that complaint is made.

(c) Any Indian person [defined in 9 GTBC § 102(a)] who violates any provision of this ordinance may be charged with a misdemeanor criminal offense and may be prosecuted pursuant to 9 GTBC § 107(s). If convicted, the Tribal Court may impose a fine of not greater than $1,000, or imprisonment not exceeding 60 days in the Tribal jail, or by both such fine and imprisonment.

(d) Any non-Indian person who violates any provision of this ordinance may be charged with and prosecuted for a civil offense, and if convicted, may be subject to civil sanctions which the Tribal Council may prescribe, and/or may be excluded from Tribal lands.

(e) Any person who violates any provision of this ordinance for which a specific penalty is not provided shall be subject to a fine of not less than $100, nor more than $5,000, or by imprisonment in the Tribal jail for not more than 60 days, or by both such fine and imprisonment, plus costs.

§ 409. Severability. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

If any section or provision of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

§ 410. Amendment or Repeal of this Ordinance. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

This ordinance may be amended or repealed only by majority vote of the Tribal Council in regular session.

§ 411. Effective Date. [History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.]

The effective date of this ordinance shall be the date upon which it is certified by the Secretary or his delegate and published in the Federal Register in accordance with 18 U.S.C. § 1161.

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Part 5
Food Service Ordinance

§ 501. Purpose. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

The purpose of this ordinance is to protect the public from food borne illnesses and diseases.

§ 502. Definitions. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

For the purpose of this code:

(a) "Commissary" means a location where food is stored, prepared, or otherwise handled to provide prepared food for sale via a vehicle or other means of sale.

(b) "Council" means the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.

(c) "Environmental Health Advisor" means the GTB Tribal Health Service Registered Sanitarian or his/her designee.

(d) "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(e) "Food Borne Illness" means an illness, disease or discomfort brought on by the consumption of food.

(f) "Food Service Establishment" means a unit or location where food is processed and intended for immediate consumption. The term includes any such place whether consumption is on or off the premises. Food Service Establishments shall be of three categories:

(1) Class I: Full service with cooking, preparation, storage and beverages.

(2) Class II: Small scale facility. Usually delegated to hot dogs, potato chips, popcorn.

(3) Class III: Sells only prepackaged food products. No seating.

(g) "GTB" means the Grand Traverse Band of Ottawa and Chippewa Indians, a federally-recognized Indian tribe.

(h) "Health Director" means the duly appointed GTB Health Services Director or his/her designee.

(i) "Imminent Public Health Hazard" means threatening, menacing, or perilous in the judgment of the inspector.

(j) "Retail Food Outlet" means a unit or location at which food is offered for sale or distribution with no cutting, mixing, grinding, packaging, or processing.

(k) "Temporary Food Service Establishment" means a food service establishment that operates at a fixed location for a period of not more than 14 consecutive days in conjunction with a single event or celebration. Temporary Food Service Establishments shall be of three categories:

(1) Class I: Full service with cooking, preparation, storage and beverages.

(2) Class II: Small scale facility. Usually delegated to hot dogs, potato chips, popcorn.

(3) Class III: Sells only prepackaged food products. No seating.

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§ 503. Food Service Permits. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

(a) No person shall operate a food service establishment who does not have a valid Food Service Permit issued by the Health Director.

(b) Only a person who complies with the requirements of this ordinance shall be entitled to receive or retain such a permit.

(c) Permits are not transferable.

(d) A valid permit shall be posted in every food service establishment.

(e) The sale of fresh fish is not governed by this Act, but is separately regulated by federal law in 21 C.F.R. 123 and 124, of the Federal Food, Drug and Cosmetic Act.

(f) Permanent, non-temporary commercial food service establishments operating on trust lands of the Grand Traverse Band of Ottawa and Chippewa Indians must possess an unsuspended, unrevoked Food Service Permit from the Health Director. Food service permits will be issued as follows:

(g) All permanent facilities must meet the general requirements of the "1995 Food Code U.S. Public Health Service" or the 1982 edition of the Food and Drug Administration's "Retail Food Store Sanitation Code" or "Regulation 541 of the Michigan Department of Agriculture Food Division" for smoked fish, whichever applicable and any other policies developed by the Tribe regarding, for example, compliance time frames.

(1) The Environmental Health Advisor shall submit a completed food service establishment inspection report to the Health Director.

(2) The Health Director shall issue a Food Service Permit if the following conditions are met:

(A) A score of at least "75" out of a perfect "100" was recorded on Form FDA 2420, or Form FDA 3079, and

(B) There were no "critical item" deficiencies noted on Form FDA 2420 or FDA Form 3079.

(C) Food Service Permits shall be issued for a twelve-month period following approval by the Health Director. Renewal of the permit is to be accomplished by notifying the Health Director, who will then request the Environmental Health Advisor to inspect the premises.

(D) Food Service Permits shall be displayed in a conspicuous location within food service establishments.

(h) No person shall operate a temporary food service establishment who does not have a valid Temporary Food Service Permit issued to him/her by the Health Director of the Grand Traverse Band.

(1) Only a person who complies with the requirements of this ordinance shall be entitled to receive or retain such a permit.

(2) Permits are not transferable. Temporary Food Service Permits shall terminate 14 days from the date of issue.

(3) Temporary food service establishments, operating on trust lands of the Grand Traverse Band, must possess an unsuspended, unrevoked Temporary Food Service Permit from the Health Director of the GTB. Temporary Food Service Permits will be issued as follows:

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(A) All temporary facilities must meet the general requirements of the GTB'S "Temporary Food Service Guidelines".

(B) The Health Director shall issue a Temporary Food Service Permit to the operator of a temporary food service facility if the operator of said establishment has reviewed the "Temporary Food Service Guidelines" and signed an agreement to comply with these guidelines.

(C) Temporary food service permits shall be issued for a period of time as designated by the Health Director.

(D) Temporary Food Service Permits shall be prominently displayed within the food service establishment.

(i) Three copies of the "1995 Food Code U.S. Public Health Service", "Retail Food Store Sanitation Code", "Regulation 541 of the Michigan Department of Agriculture Food Division" and the "Temporary Food Service Guidelines" shall be on file in the office of the Health Director.

(j) All food service employees will be required to obtain and possess a current Food Handler Certificate. The Food Handler Certificate will be issued by the Health Director and will be valid for one year after issuance.

(1) To obtain a Food Handler Certificate, the food service employees must attend a Food Service Training Session, sponsored by the GTB Health Department, and present the negative results of a tuberculosis (Manteaux) test.

(2) Food Service Training Sessions will be presented at least twice a year as published by the Health Director. Manteaux tests will be available from the GTB Health Department.

(3) Copies of all Food Service Permits, Temporary Food Service Permits, and Food Handler Certificates will be maintained by the GTB Health Director or his/her designee.

§ 504. Inspections. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

(a) The GTB Tribal Council delegates inspection authority of all food service establishments on trust lands of the GTB to the Health Director and Environmental Health Advisor.

(b) Inspections shall be conducted at least annually of all permanent, non-temporary food service establishments by the Environmental Health Advisor or his/her designee, and findings shall be reported utilizing the Food Service Establishments Inspection Report Form FDA 2420 or Form FDA 3079. Commercial establishment reports will be sent to the owner/operator of the facility, the Chairman of the GTB Tribal Council, and the Health Director of the GTB.

§ 505. Termination of Permits. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

If any individual or party, subject to the jurisdiction of the GTB, who also operates a food service establishment required to possess a Food Service Permit or a Temporary Food Service Permit, violates the aforementioned provisions, such violation shall constitute grounds for termination of that person's permit to trade on trust lands of the GTB by the GTB Health Director.

§ 506. Enforcement, Cease & Desist Orders, Misdemeanor, Temporary Restraining Orders, Seizure

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and Forfeiture. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

(a) The GTB Sanitarian or his/her designee shall be responsible for the enforcement of the terms and conditions of this Food Service Ordinance.

(b) The Sanitarian shall issue a Cease and Desist Order to any food vendor, temporary or permanent, who is not in compliance, with the Food Service Ordinance and when it has been determined there is an existing or an imminent public health hazard.

(c) The Cease and Desist Order shall be placed on the vendor's premises in a place clearly visible to the public. The Cease and Desist Order shall state that the GTB Sanitarian has ordered this establishment to cease and desist from selling food until such time as the establishment is in compliance with this Food Service Ordinance.

(d) It shall be a misdemeanor for any food vendor to sell food without a valid permit. The misdemeanor shall be punishable in Tribal Court by a jail term not to exceed 90 days and/or a fine not to exceed $100.

(e) If a food vendor continues to operate after the issuance of a Cease and Desist Order and/or a citation issued by Tribal Law Enforcement, the Sanitarian, his or her designee, or Tribal Law Enforcement may obtain, ex-parte, a Temporary Restraining Order from the Tribal Court ordering the closure of the food vending establishment.

(f) All equipment used in a food vending operation which is in violation of this Food Service Ordinance shall be subject to seizure and may be forfeited to the Tribe upon the petition of the Tribal Prosecutor and a hearing in Tribal Court.

§ 507. Effective Period of Ordinance. [History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.]

(a) This ordinance shall be in full force and in effect immediately after its adoption and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

(b) Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected.

(c) Any part of this ordinance may be amended by the GTB Tribal Council by a majority vote.

(d) Upon the adoption of this ordinance there shall be allowed, one year, a time period in which to fulfill all of its administrative requirements (creation and issuance of forms, permits and certificates).

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Part 6
Application Of Non-Tribal Laws

§ 601. Adoption of State Laws and Ordinances. [History: Tribal Act #85-363, enacted by Tribal Council on December 18, 1985.]

(a) The Grand Traverse Band adopts the laws, codes, ordinances, and other instruments of the law of the State of Michigan to the extent these instruments, laws, codes, and ordinances do not conflict with appropriate federal law or Tribal codes, ordinances, and laws in force now or enacted in the future.

(b) This is an interim measure effectuated with the interests of our specific citizenry, and all visitors to the reservation, in mind.

CROSS-REFERENCE: This section ("Application of non-Tribal Laws") is also included in 9 GTBC § 201 (the Criminal Offenses title).

§ 602. Incorporation of State and Local Laws. [History: Tribal Act #83-121, enacted by Tribal Council on February 25, 1983; as amended by Tribal Act. #01-19.1006, enacted by Tribal Council on June 20, 2001.]

The Grand Traverse Band of Ottawa and Chippewa Indians incorporates by reference and adopts as a Tribal ordinance the International Codes and specifically the version(s) published for use within the State of Michigan, as amended in the future, as well as the other standards referenced in Resolution No. 01-19.1006 enacted on June 20, 2001, with the following provisos:

(a) That the Tribe's Zoning Administrator shall administer these standards and determine that appropriate requirements are followed for all activities upon Tribal lands;

(b) That the Tribal Council shall issue any necessary licenses upon request from the Administrator showing that the appropriate requirements are satisfied; and

(c) That upon recommendation of the Administrator and for good cause shown, the Tribal Council may approve a waiver of any standard, law or regulation which might otherwise be applicable.

CROSS-REFERENCE: This provision is also contained in 12 GTBC § 301 (Infrastructure title).

§ 603. Adoption of State of Michigan's Vehicle Code. [History: Tribal Act #92-10.28, enacted by Tribal Council on April 21, 1992. The Michigan Vehicle Code had previously been adopted on a one year trial basis in Tribal Act #90-839, enacted by Tribal Council on May 19, 1990.]

The Tribal Council of the Grand Traverse Band hereby adopts the Michigan Vehicle Code on a permanent basis.

CROSS-REFERENCE: This provision is also contained in 9 GTBC § 202 (the "Criminal Offenses" title).

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Chapter 7
Firearms

§ 701. Adoption of Michigan Firearms Laws. [History: Tribal Act #84-255, enacted by Tribal Council on October 16, 1984.]

(a) The general laws of the State of Michigan governing firearms are adopted by reference and shall apply to Tribal lands as well.

(b) To the extent Michigan law requires licenses to purchase, carry or transport a pistol and/or other concealed weapon (see M.C.L.A. §§ 28.422, 28.426, and 28.42a), such application for licenses shall be made to this Tribal Council acting as the licensing board in lieu of the board(s) prescribed in state law.

(c) Firearms possessed upon Tribal lands in contravention of state law and/or without required licenses issued by this Tribal Council shall be subject to forfeiture.

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Chapter 8
Hazardous Materials Releases

§ 801. Intent. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

The surface waters, groundwater, soils, vegetation and atmosphere inside the reservation are susceptible to damage from the handling, storage, use, processing and disposal of hazardous material. The expense incurred by the Tribe as a result of Grand Traverse Band Fire/Rescue Department having to respond to protect life, property and the environment by preventing or mitigating a release of hazardous materials should be recovered from the person responsible for the release or threatened release.

§ 802. Definitions. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) "CFR" shall mean the Code of Federal Regulations.

(b) "Designee" shall mean the Northwestern Regional Hazardous Materials Response Team or such other public or private agency authorized in writing by the Tribe to respond to hazardous materials incidents within the Grand Traverse Reservation or on trust lands.

(c) "Emergency action" shall mean all of the activities conducted in order to prevent imminent injury or mitigate injury to human health or to the environment inside the Grand Traverse Band from a release or threatened release of any hazardous material into or upon the environment.

(d) "Hazardous material" shall mean any of the following:

(1) Any material listed in 49 CFR § 173.2, as may be amended, as a hazardous material;

(2) Any material listed in 40 CFR § 401.15, as may be amended, as a toxic pollutant;

(3) Any material designated as a hazardous material and regulated as such by the law of the State of Michigan; and

(4) Petroleum and petroleum-based products which retain any of the hazardous characteristics of raw petroleum.

(e) "Person" shall include any individual and any corporation, association, partnership, firm, trustee, or legal representative.

(f) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into or upon the environment, which causes dangers or harm to the public health or to the environment; including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation, or by any township ordinance.

(g) "Response" shall mean action by the Tribe or its designee to contain, clean-up or mitigate injury to the environment or to people caused by a release or threated release of hazardous materials in a

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manner other than as an emergency action.

(h) "Threatened release" shall mean any imminent or impending event with the potential to cause a release, and which causes the Tribe to undertake an emergency action to prevent a release.

§ 803. Notice and Response. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

(a) Any person who handles or stores hazardous materials that, if released, would cause damage to the surface waters, groundwater, soils or atmosphere shall notify the Tribe prior to transporting hazardous materials onto the reservation for handling or storage and/or immediately upon release.

(b) The requirements of this ordinance shall not be construed to forbid or forgive any person from using all diligence necessary to control a hazardous material release prior or subsequent to the notification of the Tribe, especially if such efforts may result in the containment of the release or the abatement of extreme hazard to the employees or the general public. Delays in reporting releases due to in-house notification of off-site owners or supervisors shall result in penalties. Nothing in this ordinance shall be construed to exempt or release any person from any other notification or reporting required by any Tribal, state or federal agency or with all applicable regulations and laws.

(c) The Tribal Council, Fire Chief, or the Tribal Manager are authorized to direct a response or an emergency action and the clean-up and abatement of any release, or threatened release, within the Tribe.

§ 804. Liability for Costs. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

(a) Any person who causes a release or a threatened release, or who contributes to the same, shall be liable to the Tribe for recoverable costs incurred by a response or an emergency action.

(b) The following described persons shall be jointly and severally liable to the Tribe for the payment of all costs incurred by the Tribe as a result of such cleanup or abatement activity:

(1) Any person whose negligent or willful act or omission proximately caused such release, discharge or deposit; and

(2) Any person who owned or had custody or control of the hazardous material or the material at the time of such release, discharge, or deposit, without regard to fault or proximate cause.

§ 805. Recovery of Costs. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

(a) The Tribe or its designee shall keep an itemized record of recoverable costs resulting from a release or threatened release, including any response or an emergency action.

(b) The Tribe or its designee shall submit a written itemized claim to the responsible person for the total costs incurred related to the release or threatened release and any emergency action with written notice that unless the amounts are paid in full within 30 days after the date of the mailing of the claim and notice, a civil action will be commenced seeking recovery for the stated amount plus any amounts

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occasioned by such suit.

(c) For the purposes of this ordinance, costs of the Tribe or its designee shall mean all direct and indirect costs and shall include, but not be limited to, the following:

(1) Actual labor cost of personnel, including workers' compensation benefits, including continuing costs to an employer, and fringe benefits;

(2) Administrative overhead;

(3) Costs of equipment operation;

(4) Costs of materials;

(5) Laboratory costs of analyzing samples taken during the emergency action;

(6) Medical expenses incurred as a result of response activities;

(7) Costs of any contract labor;

(8) Costs to supervise or verify the adequacy of the cleanup or abatement by others; and

(9) Legal expenses that may be incurred as a result of the response or emergency action, including actions for recoverable expenses pursuant to this ordinance.

(d) Costs recovered related to the response or emergency action incurred by the Tribe's designee shall be transferred to the designee as soon as possible.

§ 806. Civil Suit. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

The Tribe or its designee may bring a civil action for payment of the recoverable costs against any and all persons liable under this ordinance. All costs of such suit, including actual costs and attorney fees, shall also be a recoverable cost within the same civil action.

§ 807. Tribal, State or Federal Law. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

(a) Nothing in this ordinance shall be construed to conflict with Tribal, state or federal laws requiring persons causing or responsible for release or threatened release from engaging in remediation activities or paying the cost thereof, or both.

(b) Nothing in this ordinance shall prevent the criminal or civil liability of any person under any applicable tribal, federal or state law or regulation.

(c) Failure of a person to comply with an applicable tribal, federal or state law or regulation governing the transportation, use, storage, handling or disposal of hazardous material shall establish prima facie liability to the Tribe or its designee for recoverable costs incurred by a response or emergency action.

§ 808. Nonexclusive Remedy. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on

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February 19, 2016.]

The remedies provided by this ordinance shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

§ 809. No Waiver of Sovereign Immunity. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

Nothing in this ordinance shall be interpreted as waiving the sovereign immunity of the Tribe or any designee entitled to the same.

§ 810. Effective Date. [History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.]

(a) The effective date of this Ordinance shall be the 21st day of November 2000.

(b) The effective date of the amendments to this ordinance adopted January 20, 2016 shall be February 19, 2016.

§ 811. Clean-up Standards. [History: Enacted by Tribal Council on February 19, 2016.]

(a) Adoption and Application of Standards.

(1) The Tribe hereby adopts and shall apply the clean-up standards set forth in the Michigan Department of Environmental Quality Clean-up Criteria Requirements for Response Activity, as amended, which is incorporated herein by reference.

(2) If a necessary clean-up standard is not identified, or if a release or threatened release involves multiple materials with multiple health effects, the Tribe may determine the appropriate clean-up standard by reference to comparable tribal, state or federal clean-up standards, or the Tribe may consult with tribal, state and federal agencies, or institutes of higher learning, or other entities or persons with expertise in the clean-up of hazardous or toxic materials and/or human or environmental toxicology to determine the appropriate clean-up level that protects human health (consistent with Tribal practices and consumptive uses) and the environment.

(3) The Tribe may develop and adopt specific clean-up standards for application under this ordinance. In developing these standards, the Tribe may consult with tribal, state and federal agencies, or institutes of higher learning, or other entities or persons with expertise in the clean-up of hazardous or toxic materials and/or human or environmental toxicology to determine the appropriate clean-up level that protects human health (consistent with Tribal practices and consumptive uses) and the environment. Upon enactment by Tribal Council of such clean-up standards, which shall be in the form of amendment(s) to this ordinance, such standards shall, on the effective date determined by the Council, become enforceable hereunder and shall supersede previously applicable standards.

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Chapter 9
Exclusion Act

§ 901. Title; Purpose. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) This Act shall be known as the "Exclusion Act."

(b) The purpose of this Act shall be to provide for the Tribe's inherent right to exclude from Tribal lands persons or other parties whom the Tribal Council determines to be persona non grata, in accordance with Article IV, Section 1(g).

(c) Exclusion under this Act shall be an action of last resort, or used in emergency situations or under exigent circumstances only.

§ 902. Power to Exclude. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) The power to exclude persons or parties from Tribal lands or property shall lie exclusively in the Grand Traverse Band Tribal Council and shall not be delegated.

(b) An exclusion ordered under this Act may be from all, or any portion, of Tribal lands or property.

(c) An exclusion ordered under this Act may be for any period of time or may be permanent. An exclusion may also be for an intermittent period of time.

(d) Exclusions may be conditional, and could be subject to stipulations that involve restitution to the Band or to individuals; compliance with restraining orders; or any other condition which the Tribal Council deems appropriate.

(e) For purposes of this Act, "Tribal lands or property" shall include all lands defined as "Indian country" by 18 U.S.C. § 1151, as well as any other real property owned or controlled by the Grand Traverse Band or any of its agencies or entities.

§ 903. Persons/Parties Subject to Exclusion. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

Any person or party may be excluded in accordance with this Act unless such exclusion violates applicable Grand Traverse Band Tribal or federal law.

§ 904. Exercising Power to Exclude. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) Exclusion of any person or party shall be done through enactment of a written resolution of the Tribal Council after it has conducted a hearing which provides the person/party to be affected an opportunity to respond to the Tribal Council's grounds for exclusion.

(1) All hearings and exclusions under this Act shall be done during an open session of Tribal Council.

(2) At such hearing, the Tribal Council shall make public its reasons for proposing to exclude the person/party in question. Such reasons must be based upon one or more of the following:

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(A) A threat to public health, safety or welfare, including recurring criminal activity;

(B) A threat to the natural resources or environment;

(C) Fraudulent business activity involving Tribal members, Tribal entities or Tribal properties;

(D) Gross interference with Tribal administration or law enforcement; or

(E) Intentional interference, or interference resulting from grossly negligent activity, with Tribal ceremonies or cultural activities.

(3) The applicable reasons set forth in Subsection (2) above shall be recited in the resolution of exclusion, along with a recitation of facts supporting such reasons.

(4) At the Tribal Council hearing, after the person/party affected has been provided with a detailed explanation of the reasons and facts supporting the proposed exclusion, such person/party shall be provided reasonable opportunity to rebut the reasoning given and otherwise make a case for why exclusion is not proper. This opportunity shall include the ability to cross-examine any witnesses who testify at the hearing in support of the exclusion. No formal rules of procedure or rules of evidence shall govern such Tribal Council hearing.

(5) Only after following the procedures set forth in this section may Tribal Council vote on the resolution of exclusion. In order to be effective, a resolution under this Act must be approved by at least five members of the Council.

(6) Such resolution must contain the date/time when the exclusion becomes effective. The affected person/party must be notified of the effective date/time in accordance with the provisions of Subsection (b) below.

(7) Due to its responsibility for public safety and the public interest, the Tribal Council shall have broad discretion to enact a resolution of exclusion under this Act within the parameters established under the above Subsection (2).

(b) Best efforts shall be made by the Tribal Council and/or its designee to provide written notice to the affected person/party of both the hearing and any subsequent exclusion. Service may be effected by mailing such notice to the last known address for the affected person/party.

(1) Such notice shall be served:

(A) In the case of a Tribal Council hearing, no later than five calendar days prior to the date of hearing; and

(B) In the case of an enacted exclusion resolution, no later than five business days from the date of the resolution's enactment.

(2) If a person has notice of the exclusion, and its terms, due to being present at time of the resolution's enactment by Tribal Council, such notice shall fulfill the requirements of this section although written notice shall also be provided in accordance with the provisions of this section.

(3) For purposes of 14 GTBC § 907 of this Act, the affected person/party shall not be criminally liable for violation of the terms of exclusion prior to service of the notice provided under this subsection. If the only service of notice was conducted by mail, the affected person/party shall not be criminally liable for violation of the terms of exclusion until two days after the date such

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notice was mailed, provided however that such liability may be incurred if it can be proven that the person/party was aware of the enacted exclusion and its terms prior to receipt of the notice via mail.

§ 905. Appeal to Tribal Court. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) Any person or party who has been the subject of an enacted exclusion resolution under this Act shall have the right to appeal such exclusion in the Grand Traverse Band Tribal Court. Such appeal must be filed in the Tribal Court within six months of the date the resolution of exclusion was enacted.

(b) Within three weeks of the date an appeal is filed, the Tribal Court shall conduct a review of the record to determine whether or not the Tribal Council properly excluded the appellant in accordance with the provisions of this Act.

(c) The Tribal Court shall be required to find by clear and convincing evidence that the Tribal Council acted properly under this Act. The burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the Council did not so act.

(d) The Tribal Court shall respect the broad discretion which the GTB Constitution and this Act vests in the Tribal Council with respect to its powers of exclusion.

(e) In any appeal, the Tribal Court shall be limited to a review of the Tribal Council's action concerning such exclusion. The Tribal Court may not conduct a de novo hearing with respect to the exclusion.

(f) The decision of the Tribal Court must be released within five days of the hearing or, if the hearing was continued/adjourned for any purpose, within five days of the last court proceeding on the matter.

(g) The decision of the Tribal Court may be appealed by either party to the Tribal Appellate Court. Such appeal must be filed within six months from the date the Tribal Court decision was filed.

(h) The person/party excluded shall be allowed re-entry onto Tribal property for the limited time and purpose of attending any hearings or proceedings under this section. The Tribal Court is encouraged to recite this statutory authority for re-entry on its notices of hearings to the affected person/party.

(i) With the exception set forth in Subsection (h) above, an exclusion shall remain in effect at all times during the pendency of the appeal.

§ 906. Emergency Exclusions. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) In the event that the Tribal Council determines that there is an immediate need to order the exclusion of a person or party from Tribal property and that the issuance of notice and an opportunity for a hearing would cause a delay that could be harmful to the Grand Traverse Band, its property or members, or other residents of Tribal property, the Tribal Council may enact, via written resolution, an emergency exclusion which shall be immediately effective. Such resolution shall contain the reasons for such exclusion, as required in 14 GTBC § 904(a)(2)-(3) above, and must be approved by at least five members of the Council.

(b) Immediately after enactment of such an emergency exclusion, the Council shall notify the person/party of the exclusion. The Council shall provide the person/party with a copy of the resolution and notice of the hearing to be held.

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(1) With the exception of it being held after an exclusion has been enacted, the hearing shall generally comply with the provisions set forth in 14 GTBC § 904 above, and shall afford the affected person/party the opportunity to rebut the Council's findings and request a rescindment of the exclusion.

(2) The person/party excluded shall be allowed re-entry onto Tribal property for the limited time and purpose of attending the Council hearing.

(c) After the opportunity for a hearing under this section, the affected person/party may pursue an appeal to the Tribal Court in accordance with 14 GTBC § 905 of this Act.

§ 907. Violation of a Criminal or Civil Offense. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003. As amended by Tribal Act #06-24.1713 enacted by Tribal Council at Special Session on September 27, 2006.]

(a) Violation of the terms of an exclusion ordered under this Act, by an individual subject to the criminal jurisdiction of the Band, shall constitute a criminal offense punishable by one year imprisonment and/or a fine of $5,000 and the criminal offense of Trespass, as codified at 9 GTBC § 107(j)(4), is hereby incorporated by reference in this subsection.

(b) Violation of the terms of an exclusion ordered under this Act, by an individual subject to the civil jurisdiction of the Band, shall constitute a civil offense punishable by a fine of $5,000.

§ 908. Recovery of Costs. [History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.]

(a) An exclusion order enacted under this Act may include a requirement for the person/party excluded to pay initial costs associated with his or her exclusion. Such costs could include, but are not limited to, such costs as may be incurred for: execution of an eviction; any additional law enforcement effort required to ensure an individual complies with an exclusion order; recovery of Tribal property; costs to remove personal property left behind by the excluded individual; etc.

(b) If an assessment has been sent or otherwise provided to an individual under this section but payment has not been received by the Grand Traverse Band within 60 days of the date of service (date of mailing if sent via mail), the Tribal Prosecutor may move the Tribal Court to hold a hearing at which the individual shall show cause as to why he or she should not be charged with a criminal offense under 14 GTBC § 907 of this Act.

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Chapter 10
Marina Operation Code

§ 1001. Authority. [History: Enacted by Tribal Council motion in Regular Session on August 15, 2018.]

(a) The Constitution of the Grand Traverse Band vests in the Tribal Council all sovereign governmental executive and legislative powers. These powers include the power to regulate the health, safety, and welfare of the tribe and its members; manage its economic affairs; levy and collect fees and assessments; and maintain law and order within the tribe's jurisdiction.

(b) Use of the sheltered waters of the Grand Traverse Bay and other waters is a historical right and cultural prerogative of the Grand Traverse Band. Accordingly, the Tribal Council is obligated to regulate such use to maximize its potential to the benefit of the Tribe and its members, and preserve it for future generations.

§ 1002. Commercial and Subsistence Fishing Marinas. [History: Enacted by Tribal Council in motion Regular Session on August 15, 2018.]

(a) There are established two marinas for use by commercial and subsistence fishers exercising treaty-protected fishing rights in the Great Lakes: the Arthur Duhamel Memorial Marina in Peshawbestown, and the Beaver's Landing Marina on Beaver Island.

(b) Supervision and management of the commercial and subsistence fishing marinas in existence or as may be established is delegated to the Natural Resources Department for exercise by a Harbormaster.

(c) The Harbormaster is delegated such regulatory authority as necessary to create regulations for the safe, efficient, and accessible use of the marinas under his or her supervision and management. The Harbormaster may establish or amend regulations, in writing, to be effective on approval of the Natural Resources and Environmental Committee. Regulations shall be posted at the Harbormaster's office and at all commercial and subsistence fishing marinas.

(d) Sections §§ 1003 — 1017 of this Marina Operations Code do not apply to commercial and subsistence fishing marinas.

§ 1003. Grand Traverse Band Municipal Marina Port Authority. [History: Enacted by Tribal Council motion in Regular Session on August 15, 2018.]

(a) The Tribal Council adopted Resolution #07-25.1707 at a Regular Session on May 16, 2007. Said resolution established the Grand Traverse Band Municipal Marina Port Authority.

(b) The Tribal Council may, in its discretion, designate marinas for use other than commercial and/or subsistence fishing to be supervised and managed by the Grand Traverse Band Municipal Marina Port Authority and this Marina Operations Code.

§ 1004. Definitions. [History: Tribal Act #7-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

The following terms, as used in this code, are hereby defined to have the following meanings. All other terms shall have their regular dictionary meanings.

(a) "Vessel" means a craft designed to navigate on water.

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(b) "GTB" or "Owner" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(c) "Tenant" means the person assigned to a seasonal or transient slip.

(d) "Dinghy" means a human powered or outboard powered watercraft, less than 12 feet in length, which is designed to carry people from their vessel to a dock or to shore.

(e) "Marina" shall mean the Grand Traverse Band Municipal Marina.

§ 1005. Rules and Procedures for the Operation of the Waiting List. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion on August 15, 2018.]

(a) The GTB Marina shall keep two waiting lists, one for vessels 34 feet to 48 feet and one for vessels 48 feet one inch to 80 feet. No vessels larger than 80 feet may be moored in the Marina. The waiting lists are operated as an annual renewal for which the Grand Traverse Band sends out notices. The waiting list fee is due no later than January 31st of each year. If not received by February 1st, a 10% late penalty will be assessed. If a renewal is not returned by February 1st the name shall be removed from the waiting list.

(b) The Grand Traverse Band shall establish the fee for the waiting list in the Grand Traverse Band's Schedule of Fees.

(c) The waiting list fee shall not be considered any part of the lease fee if a person obtains a slip lease.

(d) The intent of the slip renewals is to give each applicant the opportunity to update any information such as mailing address, phone number or vessel information. All changes and updated information shall be submitted with the annual renewal slip to allow Grand Traverse Band to update its records.

(e) Any applicant may increase or decrease his/her vessel size within the range of the list on which he/she is placed without the risk of losing his/her position. If the applicant changes his/her vessel size'so that it no longer is in the range of the list on which he/she is reserved, he/she forfeits his/her place on the original list and will be placed at the end of the other list.

(f) Any applicant may ask to be placed on both lists at his/her discretion upon paying each annual fee, and shall be entitled to the reservation of his/her selection at the time a slip becomes available. Upon obtaining a slip lease only the vessel for which he/she obtained the lease may be kept in the slip once a slip is obtained. Changing to a different vessel places him/her at risk of forfeiture of a future slip.

(g) Grand Traverse band may reject any application for the waiting list at its own discretion.

§ 1006. Determination of Selection from Waiting List. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) Selection from the waiting list for a lease shall be granted to the first person on each list according to slip size availability. This placement shall be based on the vessel information provided by the applicant and shall not be substituted without prior authorization from the Harbormaster.

(b) Grand Traverse Band will make reasonable attempts to contact the applicant according to the information provided during the annual renewal. It is the applicant's responsibility to notify Grand Traverse Band of any change in contact information and Grand Traverse Band is not responsible if the applicant fails to update information.

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(c) Grand Traverse Band will first attempt by telephone to contact the next person with the appropriate size vessel for the available slip to notify them of a slip's availability. Grand Traverse Band shall leave a message if possible and the applicant then has 72 hours to return the call. If Grand Traverse Band must leave a message, a notice shall be mailed or emailed the same day to the person. The person receiving such mail or email must reply immediately upon receipt of notice.

(d) If Grand Traverse Band is not successful in contacting the first applicant as described above, Grand Traverse Band will contact the next applicant following the above guidelines, and will continue this process until an applicant has been reached and the slip has been assigned.

(e) All applicants may reject their first slip offer without risk of losing their place on the waiting list. A second rejection of a slip assignment shall result in the applicant being removed from their place on the list and placed at the bottom of the list. The Grand Traverse Band is not required to send notice when placing the applicant at the end of their list.

§ 1007. Selection of Annual Slip Tenants. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) Grand Traverse Band shall send annual lease renewals to current tenants.

(b) Prior-year tenants shall be given first right of refusal for the coming year's leases. However, Grand Traverse Band reserves the right to refuse any lease at its own discretion.

(c) Full payment of the lease is due to Grand Traverse Band no later than February 15th of each year. Any payments received between February 16th and March 1st shall be subject to a 10% late penalty. Any penalties MUST be paid in full for the lease to be fully paid.

(d) No payments made after March 1st shall be accepted. Any slip in which the lease has not been paid in full prior to March 1st shall be available for lease to another tenant at the discretion of Grand Traverse Band.

(e) All vessels shall be identified at the time of lease payment. Proof of identification shall include vessel ownership, size, length, draft, beam, and power or sail. The vessel shall be registered and insured in the name of the tenant. If the registration or insurance information does not match the application, the application will be returned without being processed.

(f) Grand Traverse Band shall assign all available slips after March 15th and before March 31st of each year.

(g) If a tenant changes to a vessel of a different size, he/she may risk losing his/her slip assignment. Tenants who have changed or will be changing vessels from the prior year shall contact the Harbormaster for prior approval of the vessel. Grand Traverse Band may reject a vessel change in the Marina.

(h) Grand Traverse Band may, at any time, change any slip assignments deemed in the best interests of Grand Traverse Band.

(i) Dinghy slip leases are available on a first come, first serve basis each year. Dinghy slips shall be available after January 1st of each season. No leases, applications or payments shall be accepted before January 1st. Prior tenants do not have any priority for dinghy leases.

(j) No tenant may sublease or rent his/her slip to any person at any time.

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(k) The tenant shall be responsible for any property damage, nuisance or violations of this Marina Code, including those caused by a visitor of the tenant or an invited guest.

§ 1008. Marina Season [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) The Grand Traverse Band Municipal Marina season begins May 15th and ends October 31st of each year. The Marina bathhouse and restrooms, water service, electric, pump outs or gas pumps might not be open or functional prior to this date.

(b) Vessels may be placed in the Marina between April 15th and May 15th only with the expressed permission of the Harbormaster and only after the tenant has provided updated copies of vessel registration and proof of insurance to Grand Traverse Band for the Harbormaster's review and approval.

(c) All vessels and personal equipment shall be removed from the Marina and public lands no later than November 15th.

(d) If any vessel remains in the Marina after November 15th, the owner shall be charged twice the established daily rate.

(e) If any vessel remains in the Marina after November 30th, it shall be removed from the Marina and impounded by Grand Traverse Band. The tenant shall be responsible for 1 1/2 times the costs incurred by Grand Traverse Band for the removal and impound of the vessel. The impound fees shall be established in Grand Traverse Band's Schedule of Fees.

(f) Neither the Grand Traverse Band nor any company working in conjunction with the Grand Traverse Band to remove any vessel from the Marina shall be liable for damages to a vessel removed from the Marina as provided in this Code.

§ 1009. Hours of Operation [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) Unless otherwise specified the Marina's hours of operation shall be:

May 15th through June 23rd: 8:00 a.m. to 6:00 p.m.

June 24th through September 5th: 8:00 a.m. to 8:00 p.m.

September 6th through October 15th: 8:00 a.m. to 6:00 p.m.

After October 15th: by appointment only

(b) If there is an emergency after the posted hours, all calls shall be placed to 911.

§ 1010. General Provisions. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) It is the responsibility of every Marina user, tenant, or transient user to know and comply with this code. Grand Traverse Band shall supply each current and new tenant with a copy of this code at the

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time it is adopted, or at the time a tenant is offered a seasonal slip. A copy of this code shall be made available on Grand Traverse Band's website and shall be posted at the Harbormaster's office in plain view for all transient users to review. This code shall supersede any and all prior rules or regulations. All tenants shall comply with this Code and, at the time they accept a seasonal, day use, or transient rental, affirm they will comply with the Code by paying the Marina slip annual lease, day rental, or transient fee.

(b) Tenants shall notify the Harbormaster if leaving the slip for 24 hours or longer. Slips vacated for 24 hours or longer may be rented at the discretion of the Harbormaster. In the event of extended absences from the slip, the slip holder may be required to use an alternative assigned slip for up to three days until his or her slip becomes available.

(c) The Marina is a no-wake zone with a maximum speed of five nautical miles per hour (mph).

(d) All slip users shall supply their own bumpers.

(e) All tenants shall immediately report any damage or deficiencies to a Marina employee.

(f) Tenant may place one enclosed storage box near the entrance to their dock, in which personal effects may be stored. Other than those objects stored in the box or on the boat, tenants shall not keep any personal effects on the premises. If a tenant uses such storage box, it must be removed no later than November 15th, or the box and its contents will be deemed abandoned, and Grand Traverse Band may, without notice, dispose of the box and any contents in any manner it deems appropriate, without liability to tenant.

(g) No open flames or cooking shall be permitted within 100 feet of the gas storage tank, unless it is on a vessel specifically designed with below-deck kitchen facilities.

(h) Tenants shall keep pets on a leash at all times when on land and shall not permit the pet to run at large. The tenant is responsible for clean up of his/her pet and disposal of droppings in approved waste containers.

(i) It is unlawful for any slip holder to turn off, dismantle, or damage lighting in or around the Marina.

(j) Tenant may have only the registered vessel in the slip. Tenant may keep a dinghy in the slip, provided the dingy is tied to or placed on the vessel, and does not protrude into any other slip or beyond the dock. No dinghy may be kept in a slip unless the registered vessel is also in the slip. Any motorized dinghy must be registered with owner, who must also provide the insurance and registration information required for a vessel, and the dinghy must be registered and insured in the name of tenant.

(k) Minor maintenance and repairs are permissible in the slips. Exterior painting, varnishing or restoration work shall not be done with the vessel in the slip; all major work shall only be done on dry docked vessels.

(l) No swimming is permitted in the main Marina basin or off the Marina pier.

(m) If any vessel has a gas or oil leak, the owner is responsible for the immediate containment of the leak. If any vessel is found with a gas or oil leak it shall be immediately removed from the Marina by its owner. If the vessel's owner cannot be immediately located, Grand Traverse Band may remove the vessel without the owner's prior consent. The owner shall be responsible to Grand Traverse Band for all costs associated with removal of the vessel and/or clean up. Grand Traverse Band shall not be responsible for damage to the vessel in the event of such removal.

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(n) The tenant is responsible for ensuring his/her vessel is in proper working order and afloat. The tenant is responsible for immediately removing his/her vessel from the Marina in the event that it may be in danger of sinking. Grand Traverse Band may immediately remove any such vessel from the Marina without the owner's prior consent. The Harbormaster shall notify the owner of a vessel removed under this section immediately. The owner shall be responsible to Grand Traverse Band for the cost of removal of the vessel and/or any cleanup cost. Grand Traverse Band shall not be responsible for damage to the vessel in the event of emergency removal.

(o) Grand Traverse Band Municipal Marina is open to the general public during normal business hours. The tenants shall comply with the rules and regulations regarding noise and nuisances as provided in this Code. No tenant shall play audio devices at levels that disturb adjacent boaters. No tenant shall permit his/her pet to bark in a manner causing a nuisance to adjacent slip holders.

(p) No overnight camping is allowed other than on boats.

(q) No fireworks are permitted in the Marina at any time.

(r) No commercial operations are permitted in the Marina at any time without prior approval of Grand Traverse Band Municipal Marina Port Authority.

§ 1011. Transient Rentals and Day Use. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) Transient and day use rentals are on a first come, first serve basis. The Marina does not accept prior reservations.

(b) All transient and day use boaters must immediately report to the Harbor office to complete the required forms and make payment. All transient and day use boaters are required to pay in advance for one night at the time of arrival. Grand Traverse Band requires all transient renters to provide a credit card number at the time of registration upon which unpaid balances shall be billed.

(c) Transient boaters who arrive after business hours shall complete the registration form available at the Harbormaster's office upon arrival, and shall include the slip number and slip where they have docked. The transient shall confirm the slip they entered is open to transient boaters by searching the map located at the office. A transient shall not rent or dock at any slip not assigned or designated as a transient slip unless designated to do so by Marina staff.

(d) Transients understand the slip they arrived at after hours may not be available for rent and Grand Traverse Band may if necessary move the transient to another slip.

(e) Transients shall immediately remove their vessel from a slip which is not available for rent.

(f) Transient boaters may stay at the Marina as space permits for a maximum of two weeks and shall be charged full day rate fees for the entire time they are in the Marina.

(g) Transient check out is 12:00 p.m. Transients who remain in the Marina after 12:00 p.m. shall be charged an additional day.

§ 1012. Enforcement. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) The Harbormaster and any GTB Police Officer or other officer deputized by the Grand Traverse Band

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is hereby authorized to issue municipal civil infraction citations directing alleged violators of this Code to appear in Tribal court.

(b) The Harbormaster may enforce any provision of this code up to and including eviction of any tenant, visitor, guest or day-user.

(c) Any person who does not remove him/herself from the Marina as ordered by the Harbormaster or a police officer is guilty of misdemeanor trespassing.

§ 1013. Violations and Penalties. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

(a) Any person who violates any provision of this Code, except Section 1009(c), shall be responsible for a Tribal civil infraction as defined.

(1) For a first offense within $50.

(2) For a second offense within three-year period: $125.

(3) For a third offense within a three-year period: $250.

(4) For a fourth or subsequent offense within a three-year period: $400.

(b) Any person who knowingly violates Section 1012(c) of this code shall be subject to a civil fine of not less than $1,000 or more than $5,000 for each violation.

(c) Each day this code is violated shall be considered a separate violation.

(d) Citations for violations of this code may be issued by sworn officers of the GTB Tribal Police Department or the Tribal Conservation Department, or by a sworn officer acting under a valid cross-deputation agreement.

§ 1014. Nuisance Per Se. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

A violation of this Code is hereby declared to be a nuisance per se and is declared to be in violation of the public health, safety and welfare of Grand Traverse Band.

§ 1015. Separate Court Action. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

In addition to enforcing this code through the use of a municipal civil infraction proceeding, Grand Traverse Band may initiate proceedings in the Tribal Court to abate or eliminate the nuisance per se or any other violation of this Code.

§ 1016. Validity. [History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.]

If any section, provision or clause of this code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or applications of this Code, which can

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be given effect without the invalid portion or application.

§ 1017. Effective Date.

This Code shall become effective upon adoption by Tribal Council.

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Chapter 11
Anti-Dumping Ordinance

§ 1101. Findings. [History: Tribal motion, enacted by the Tribal Council August 16, 2017.]

(a) The Tribal Council finds that the Grand Traverse Band retains the inherent sovereign authority to regulate access to its lands, and to regulate the behavior and conduct of individuals present upon those lands.

(b) The Tribal Council finds that this authority is reaffirmed through federal case law, including, but not limited to, Merrion v. Jicarilla, 455 U.S. 130 (1982), Water Wheel Camp Recreational Area, Inc. v. Larance, 642 F. 3d 802 (2011), and Atkinson Trading Co. v Shirley, 532 U.S. 645 (2001).

§ 1102. Purpose. [History: Tribal motion, enacted by the Tribal Council August 16, 2017.]

The purpose of this ordinance is to provide for the civil regulation of non-member access to tribal lands, and to regulate such non-members' conduct while present.

§ 1103. Dumping prohibited. [History: Tribal motion, enacted by the Tribal Council August 16, 2017.]

No person shall dump or cause to be dumped, or place or cause to be placed, or leave any garbage, refuse, rubbish, junk, debris, furniture, appliances, inoperative or derelict automobiles, boats, trucks, or other vehicles, or any parts thereof, or weeds or trash of a vegetative nature or any used or scrapped building materials on any lands or premises of the Grand Traverse Band, whether improved or unimproved.

§ 1104. Enforcement. [History: Tribal motion, enacted by the Tribal Council August 16, 2017.]

The Tribal Police Department may issue a civil infraction citation to any person in violation of this ordinance. Such citation may carry a recovery of costs and compensation to the Grand Traverse Band of up to $5,000 assessed by the Tribal Court.

§ 1105. Limitation. [History: Tribal motion, enacted by the Tribal Council August 16, 2017.]

Nothing about this ordinance shall limit the ability of members of the Grand Traverse Band to participate in designated "clean-up" seasons designated by the Tribal government by following the directives for such participation.

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GRAND TRAVERSE BAND CODE

Title 15

COMMERCE

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Authority of Grand Traverse Band, MI

Chapter 1
GTB Secured Transactions Ordinance

§ 101. Statement of Purpose. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

This Ordinance shall be known as the GTB Secured Transactions Ordinance. The central purpose of this Ordinance is to facilitate the conducting of secured transactions where the property or instrument - financial or otherwise - Is subject to the expressed or implied limitations of Indian trust status, either by federal or tribal law, in the property or instruments disposition as a security interest.

§ 102. Policy and Subject Matter of Ordinance. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) Except as otherwise provided by § 104 on excluded transactions, this Ordinance applies to:

(1) Any transaction (regardless of form) which is intended to create a security interest in personal property or fixtures, including goods, documents, instruments or accounts.

(b) This Ordinance applies to security interests created by contract, including pledge, conditional sale other lien or title retention contract and lease or consignment intended as security.

§ 103. Perfection of Security Interest in Multi-Jurisdictional Transactions. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) Documents, Instruments and Ordinary Goods.

(1) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (b).

(2) Except as otherwise provided in the subsection, perfection and the effect of perfection or non-perfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(3) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or non-perfection of the security interest form the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(4) When collateral is brought into and kept on GTB Indian Country (which includes reservation and GTB trust lands), while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected under the law of that jurisdiction.

(b) Certificate of Title.

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Authority of Grand Traverse Band, MI

(1) This subsection applies to goods covered by a certificate of title issued under GTB law or under a statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(2) Except as otherwise provided in this subsection (b), perfection and the effect of perfection or non-perfection of the security interest are governed by the law (including the conflict of law rules) of the jurisdiction issuing the certificate.

(3) Except with respect to the rights of a buyer described in the next paragraph (4), a security interest perfected in another jurisdiction otherwise than by notation on a certificate of title in goods brought into GTB Indian Country, and thereafter covered by a certificate of title issued under GTB law, is subject to the rules stated in subsection (a)(4).

(4) If goods are brought into GTB Indian Country while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued under GTB law and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(5) Unless and until the GTB Tribal Council adopts laws creating a system for the issuance of certificates of title for such goods, perfection of security interests in vehicles, boats and other goods registered under the certificate of title laws of a state of the United States or other jurisdiction shall be governed by such laws.

(c) Accounts, General Intangibles and Mobile Goods.

(1) This subsection (c) applies to accounts and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, boats, rolling stock, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (b).

(2) The law (including the conflict of laws rule) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or non-perfection of the security interest.

(3) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence.

(4) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

§ 104. Transactions Excluded from Ordinance. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

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(a) This Ordinance does not apply:

(1) To a security interest subject to any statute of the United States, to the extent that such statute governs the rights of parties to, and third parties affected by, transactions in particular types of property; or

(2) To a landlord's lien; or

(3) To a lien given by statute or other rule of law for services or materials except as provided in § 107 on priority of such liens; or

(4) To a transfer of a claim for wages, salary or other compensation of an employee; or

(5) To a transfer by a government or governmental subdivision, official or agency except to the extent that such entity has made an effective waiver of its sovereign immunity in accordance with GTB law; or

(6) To a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or

(7) To any right of set-off; or

(8) Except to the extent that provision is made for fixtures in § 110, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder or to any property held in trust; or

(9) To a transfer in whole or in part of any claim arising out of tort.

§ 105. Sufficiency of Description. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

For purposes of this Ordinance, any description of personal property or real estate is sufficient, whether or not it is specific, if it reasonably identifies what is described.

§ 106. Security Interests Arising Under This Ordinance. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) Except as otherwise provided by applicable law, a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors.

(b) Nothing in this article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, consumer protection, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.

§ 107. Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) A security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

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(1) The collateral is in the possession of the secured party pursuant to an agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(2) Value has been given; and

(3) The debtor has rights in the collateral.

(b) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (a) have taken place unless explicit agreement postpones the time of attaching.

§ 108. When Filing is Required to Perfect Security Interest.

(a) A financing statement must be filed to perfect all security interests except the following:

(1) A security interest in collateral in possession of the secured party;

(2) A security interest temporarily perfected in instruments or documents without delivery;

(3) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(4) A purchase money security interest in consumer goods; and

(5) An assignment of accounts.

(b) If a secured party assigns a perfected security interest, no filing under this Ordinance is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor. **[History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]**

§ 109. Perfection of Security Interest in Instruments, Documents and Goods Covered by Documents; Perfection by Permissive Filing. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments can be perfected only by the secured party's taking possession.

(b) A secured party shall notify the Tribal Police prior to taking possession. Lack of actual notification shall nullify the rights of the secured party.

§ 110. Place of Filing. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998; as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999; as amended by Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) In all secured transactions, the proper place to file in order to perfect a security interest is the Legal Department of the Grand Traverse Band of Ottawa and Chippewa Indians.

(b) A filing which is made in good faith in an improper place or not in all of the places required by this

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section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

§ 111. Termination of Filing Statement. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

All perfected statements shall be terminated by Tribal Court order consistent with the generally accepted practices of perfected security interest termination procedures as recognized by general commercial practices.

§ 112. Collection Rights of Secured Party. [History: GTB Secured Transactions Ordinance, enacted by Tribal Council on May 12, 1998, as amended by Tribal Act #98-16.668, enacted by Tribal Council on January 16, 1999.]

(a) When so agreed in a conspicuous manner, in writing and on default, the secured party is entitled to notify an account debtor to make payment to the secured party directly.

(b) The secured party may perfect peaceful repossession with the consent of the account debtor.

(c) Absent the consent of the account debtor, in writing, the secured party must seek a Tribal Court order to assert collection rights.

(d) All repossessions shall only be implemented after the Tribal Police have actually been notified by the secured party.

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Chapter 1a
GTB Governmental Secured Transactions Ordinance

§ 101a. Authority and Purpose. [History: Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) The purpose of this Ordinance is to recognize that under Band law, except as otherwise provided in this Ordinance, secured parties shall have the same rights with respect to collateral in which a security interest is created and governed by this Ordinance that would exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection and priority) had been governed by the State UCC, as defined below, without regard to the choice of law principles set forth therein.

(b) This Ordinance may be cited as the "GTB Governmental Secured Transactions Ordinance."

§ 102a. Scope. [History: Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) This Ordinance shall apply only with respect to those security interests that (i) are granted by a Tribal Party, and (ii) are expressly stated to be subject to and governed by this Ordinance by resolution or ordinance of the Tribal Council.

(b) Once applicable to any security interest, this Ordinance shall remain in effect with respect to such security interest so long as the obligations secured thereby have not been fully and finally discharged or otherwise satisfied, except that this Ordinance may be amended in any manner that is not adverse to any person then secured by a security interest at the time of such amendment.

§ 103a. Definitions. [History: Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) In this Ordinance the following terms have the following meanings:

(1) "Collateral" means "collateral" as defined in the State UCC, including Pledged Revenues.

(2) "Pledged Revenues" means a Tribal Party's earnings, income and revenues, and the rights to receive the foregoing, whether in the form of money, deposit accounts, investments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest in a writing signed by such Tribal Party from the sale, lease or transfer of any interest in real property.

(3) "State" means the State of Michigan.

(4) "State UCC" means the Uniform Commercial Code as enacted and in effect from time to time in the State.

(5) "Tribal Party" means the Grand Traverse Band of Ottawa and Chippewa Indians, and any subdivision, agency, department, board, committee, commission, instrumentality, subdivision, or entity wholly owned or wholly controlled, directly or indirectly, by the Band, including the Grand Traverse Band Economic Development Corporation created under Section 17 of the Indian Reorganization Act of 1934, as amended, their successors and assigns.

(b) Any undefined terms that are defined in the State UCC are used in this Ordinance with the meanings that apply in the State UCC.

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§ 104a. Laws Applicable to Security Interests. [History: Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) Except as provided in this Section, the rights and duties of any party with respect to any security interest covered by this Ordinance shall be governed (i) by the law of any state of the United States expressly so designated by the parties in any document governing such security interest, or (ii) barring such designation, by the State UCC, including the choice of law principles set forth therein, except to the extent that such choice of law principles would apply the law of the Band (in which case the State UCC shall govern, without regard to the choice of law principles set forth therein).

(b) The perfection, effect of perfection or nonperfection and priority of any security interest governed by this Ordinance shall be determined in accordance with the State UCC, without regard to the choice of law principles set forth therein.

(c) Notwithstanding any other provision of the State UCC or this Ordinance to the contrary, a security interest granted in pledged revenues shall be perfected upon the granting thereof by the applicable Tribal Party in a writing executed by that Tribal Party, and the filing of a financing statement with respect to such security interest shall be neither necessary nor effective to perfect such security interest. Priority with respect to competing security interests in such pledged revenues shall rank according to the time of such grant.

(d) For purposes of this Ordinance and the application of the State UCC, including Sections 9-301 through 9-307 thereof, each Tribal Party shall be located in the State.

§ 105a. Effective Date and Repealer. [History: Tribal Act #03-21.1215, enacted by Tribal Council on March 19, 2003.]

(a) To the extent any provision of any law, ordinance, resolution, motion or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Ordinance, the provision of this Ordinance shall supersede and the conflicting provision shall be and hereby is repealed as it shall apply to a security interest governed by this Ordinance.

(b) This Ordinance is effective upon the date of its enactment by the Tribal Council.

(c) To the extent lawful, any prior security interest in pledged revenues purported to be created by a Tribal Party is hereby annulled and of no further force or effect.

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Chapter 2
GTB Economic Development Corporation — Federal Charter Of Incorporation

PART 1
Corporate Identity and Status

§ 201. Name.

The name of the Corporation is the GRAND TRAVERSE BAND ECONOMIC DEVELOPMENT CORPORATION.

§ 202. Federal Charter.

This Corporation is organized, incorporated and granted its corporate powers, privileges and immunities under the laws of the United States as a federally chartered Indian business corporation.

§ 203. Corporation Distinct Entity.

This Corporation is a distinct legal entity wholly owned by the Grand Traverse Band of Ottawa and Chippewa Indians (GTB or Grand Traverse Band) and its corporate activities, transactions, obligations, liabilities and property are not those of the Tribe. Nothing in this Charter shall be deemed to have waived or to permit the Corporation to waive the sovereign immunity from suit of agencies or enterprises of the GTB not specifically assigned to the Corporation pursuant to [Part 2, § 205(a)] of this Charter.

§ 204. Immunity.

This Corporation shall have the same immunity from taxation under federal and Tribal law as the Grand Traverse Band but shall be subject to Tribal taxes where applicable.

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PART 2
Corporate Purposes

§ 205. Purposes.

The purposes of this Corporation are as follows:

(a) To engage in any type of lawful business, enterprise or venture, when authorized to do so by written resolution of the Grand Traverse Band; and

(b) To promote the economic development of the Grand Traverse Band; and

(c) To enable the Grand Traverse Band to develop its resources for the benefit of the Tribal members of the Grand Traverse Band; and

(d) To specifically operate the class II and class III gaming enterprises (IGRA, 25 U.S.C. § 2701 et al.) of the Grand Traverse Band and related activities; and

(e) To provide for the efficient and effective utilization of the resources of the GTB in a manner which protects the long-term interests of the Tribe and provides income to the Tribe from the utilization of those resources.

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PART 3
Status of Corporation

§ 206. Status.

(a) The Corporation is a legal entity wholly owned by the GTB, a federally recognized Indian tribe, but distinct and separate from the GTB.

(b) The activities, transactions, obligations, liabilities, and properties of the Corporation are not those of the GTB.

§ 207. Sovereign Immunity of GTB.

Nothing in this Charter of Incorporation shall be deemed to waive, or to permit the Corporation to waive, the sovereign immunity of the GTB.

§ 208. Taxation.

The Corporation shall have the same status and immunities respecting taxation under federal law as the GTB.

§ 209. Business Affairs Management.

(a) The business affairs of the Corporation shall be managed exclusively by its Board of Directors.

(b) The GTB shall have no authority to direct the business affairs of the Corporation, except through its status as the sole shareholder of the Corporation and as provided in this Charter of Incorporation.

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PART 4
Period of Duration

§ 210. Duration.

The period of duration of the Corporation is perpetual, or until this Charter of Incorporation is revoked or surrendered by an Act of Congress pursuant to 25 U.S.C. § 477, as amended.

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PART 5
Corporate Powers

§ 211. Corporate Powers.

Subject to applicable federal law, the Corporation is expressly authorized and empowered to engage in, carry on, and conduct any lawful business in which federally chartered corporations may engage under 25 U.S.C. § 477, as amended, including, but without limiting the generality of the foregoing, the following:

(a) To purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefore interests in corporate property.

(b) To engage in, carry on, and conduct the business of purchasing parcels of real estate; of surveying, platting, subdividing, and otherwise developing parcels of real estate; of constructing roads, streets, infrastructures, systems, and other improvements of all types upon, across, or under real estate; of mortgaging or otherwise encumbering real estate; of owning, using, improving, managing, maintaining, operating, leasing, renting, selling, conveying, exchanging, disposing of, and otherwise dealing in real estate and all improvements constructed thereon; to enter into contracts for the purchasing, surveying, platting, subdividing and developing of real estate and for the design, construction, and financing of improvements upon, across, or under real estate; to engage in and conduct, or authorize others to engage in and conduct, any business or activity incident, necessary, advisable, or advantageous in connection with any of the real and personal properties owned, leased, managed, supervised, or operated by the Corporation; and, in doing, exercising, or performing any of the foregoing, to do so as a principal, agent, contractor, subcontractor, or employee, on its own account or in association, partnership (general and/or limited partnerships, as a general and/or limited partner), limited liability company, corporation, joint venture, or any other relationship with any Indian tribe, or other person, firm, corporation, partnership, limited liability company, or joint venture, and/or in any other capacity.

(c) To purchase, take, receive, acquire, own, hold, use, lease, rent, sell, convey, exchange, dispose of, improve, develop, manage, care for, maintain, operate, mortgage, encumber, pledge, hypothecate, release any and all mortgages, encumbrances, pledges, or hypothecations, and otherwise deal in and with real and personal properties, tangible or intangible, of every kind and description, wherever situated, within or without the boundaries of the Grand Traverse Band Reservation, and any and all rights, concessions, interests, and privileges therein, including but not limited to oil, gas, and mineral leases, working interests, royalties, and other interests in real estate, surface and subsurface, and including oil, gas, and other minerals.

(d) To manufacture, produce, purchase, or otherwise acquire, sell or otherwise dispose of, import, export, distribute, deal in and with, whether as principal or agent, goods, wares, merchandise, and materials of every kind and description, whether now known or hereafter discovered or invented.

(e) To undertake, conduct, manage, assist, promote, invest in, and participate in every kind of commercial, industrial, or mercantile enterprise, business, undertaking, venture, or operation, wherever situated, within or without the boundaries of the Grand Traverse Band Reservation.

(f) To adopt, apply for, obtain, register, purchase, lease, or otherwise acquire; to maintain, protect, hold, use, own, exercise, develop, manufacture under, operate, and introduce; and to sell and grant licenses or other rights in respect to, assign or otherwise dispose of, turn to account, or in any manner deal with and contract with reference to; any trademarks, trade names, patents, patent rights, concessions,

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franchises, designs, copyrights, and distinctive marks, and rights analogous thereto, and inventions, devices, improvements, processes, receipts, formulae, and the like, including such thereof as may be covered by, used in connection with, or secured or received under, Letters Patent of the United States of America or any other country, state, territory, or locality, domestic or foreign, and any licenses and rights in respect thereto, in connection therewith, or appertaining thereto.

(g) To guarantee the performance and/or payment of any contract, undertaking, obligation, liability, bond, sinking fund, security, note, or other evidence of indebtedness, including interest, of any Indian tribe, or other person, firm, or other corporation, and to secure and collateralize such guarantee by mortgage, deed of trust, assignment, pledge, or other encumbrance upon the assets, or any part thereof, or any interest therein, of the Corporation.

(h) To acquire by purchase, exchange, merger, or otherwise, all or any part of, or any interest in, the properties, assets, business, and goodwill of any one or more persons, firms, associations, partnerships, limited liability companies, corporations, or Indian tribes engaged in any lawful business; to pay for the same in cash, property, securities, or other consideration; to own, hold, use, lease, rent, sell, convey, exchange, dispose of, improve, develop, operate, manage, reorganize, liquidate, merge, sell, or in any manner retain or dispose of the whole or any part thereof; and, in connection therewith, to assume or guarantee the payment and performance of any liability, obligation, contract, or other undertaking.

(i) To lend its uninvested funds from time to time for any lawful purpose to such extent, to such Indian tribes, or other persons, firms, associations, partnerships, limited liability companies, corporations, governments or subdivisions thereof, on such terms, at such rates of interest, and with such collateral, if any, as the Board of Directors from time to time may determine.

(j) To borrow money for any lawful purpose for itself or for any person, firm, association, partnership, limited liability company, other corporation or Indian tribe, from time to time, and without limit as to amount, upon such terms and conditions, and at such rates of interest, as the Board of Directors may determine.

(k) To adopt, use, and alter, at the direction of the Board of Directors, a corporate seal.

(l) To employ or appoint employees and agents of the Corporation and define their duties and fix their compensation.

(m) To authorize payment of a stipend and reimbursement of expenses to the members of the Board of Directors for time spent in carrying out the work of the Corporation, including regularly scheduled Board meetings, other meetings for education and informational purposes, personal time spent on working on corporate issues, per diem, and mileage (if a personal vehicle is used) for conducting business of the Corporation.

(1) The payment of stipends and reimbursements of expenses incurred by members of the Board of Directors may be altered by formal action of the Tribal Council of the Grand Traverse Band, as the governing body of the sole shareholder, without the necessity of an amendment to this Charter of Incorporation.

(2) Such stipends and reimbursements shall be fair, just, and reasonable, and subject to the availability of funds of the Corporation for that purpose.

(n) To distribute all revenues of the Corporation to:

(1) Defray corporate obligations;

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(2) Make dividend payments to the sole shareholder; and

(3) Establish and invest in a suitable capital reserve fund,

(4) Provided, that the Board of Directors shall at all times endeavor to manage and operate the Corporation with the objective of minimizing expenses and maximizing dividends to the Grand Traverse Band.

(o) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive plans for any or all of its Directors, officers, and employees, subject to prior approval of the Tribal Council of the Grand Traverse Band.

(p) To enter into, make, execute, and deliver contracts of every kind and nature with any person, firm, association, partnership, limited liability company, corporation, municipality, nation, Indian tribe, state or body politic, without the approval of the Secretary of the Interior of the United States, except when the use of trust or federally-restricted Indian property requires such approval.

(q) To apply for, purchase, or otherwise acquire, and exercise, carry out, and enjoy any license, power, authority, franchise, concession, right, or privilege which any government, public body, authority, corporation, or other entity may be empowered to grant, make, or enact, and to pay for the same and all necessary costs, charges, and expenses associated therewith.

(r) To engage in, carry on, and conduct any business or business activity of the Corporation wherever situated, within or without the boundaries of the Grand Traverse Band Reservation.

(s) To sue and be sued in its Corporation name in courts of competent jurisdiction within the United States, including, without limitation, the courts of the State of Michigan and the United States of America in conformity with the procedures stated in Article XIII of the GTB Tribal Constitution and Article VII of this Charter [Part 7 of this Chapter].

(t) To do, exercise, and perform any and all other powers which may be incidental to the conduct of the corporate business, not inconsistent with law.

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PART 6
Limitation on Corporate Powers

§ 212. Limitation on Corporate Power.

The Corporation shall have no power:

(a) To sell, mortgage, or lease for a period exceeding 40 years any trust or restricted lands included in the limits of the Grand Traverse Band Reservation.

(b) To expressly or implicitly enter into agreements of any kind on behalf of the Grand Traverse Band.

(c) To pledge the credit of the Grand Traverse Band.

(d) To dispose of, pledge, or otherwise encumber real or personal property of the Grand Traverse Band.

(e) To waive any right, privilege, or immunity of, or release any obligation owed to, the Grand Traverse Band.

(f) To enter into any sublease or other encumbrance or other instrument respecting lands leased to the Corporation by the Grand Traverse Band without the prior written approval of the Tribal Council of the Grand Traverse Band.

(g) To sell or otherwise dispose of all, or substantially all, of the Corporation's assets, other than in the usual and regular course of its business, without the prior written approval of the Grand Traverse Band Tribal Council, except that the Corporation shall have the power, without such approval, to mortgage the property known as the fee simple lands.

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PART 7
Limited Liability

§ 213. General.

The properties and assets, both real and personal, of the shareholder, Directors, and officers shall be exempt from the debts and liabilities of the Corporation.

§ 214. Tribal Assets.

Nothing in this Charter of Incorporation shall be construed as creating or recognizing any rights to encumber, levy, affix, adjudicate, and/or take judgment against any Tribal assets or property owned by the Grand Traverse Band for any action, adjudication, or determination of liability of the Corporation.

§ 215. Tribal Sovereign Immunity.

(a) Any waiver of the Corporation's sovereign immunity, if any, is not intended to be, nor shall it be construed as, a waiver of the sovereign immunity of the Grand Traverse Band, nor shall any such waiver create a liability on the part of the Grand Traverse Band for the debts or obligations of the Corporation.

(b) Any exercise of the Corporation's authority to sue or to be sued shall not be construed or operate as a consent to suit by or against, or to attachment of assets of, the Grand Traverse Band.

§ 216. Sovereign Immunity of the Corporation.

(a) The Corporation is hereby clothed with all the privileges and immunities of the Grand Traverse Band, except as specifically limited by this Title or other Tribal law, including sovereign immunity from suit in any state, federal or Tribal Court.

(b) Except as provided in this section, nothing in this Charter nor any action of the Tribe or the Corporation shall be deemed or construed to be a waiver of sovereign immunity from suit of the Corporation, or to be a consent of the Tribe or the Corporation to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Tribe or the Corporation to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Corporation, or to be a consent of the Tribe or the Corporation to suit in respect to any Indian land, or to be a consent of the Tribe or the Corporation to the alienation, attachment or encumbrance of any such land.

§ 217. Sovereign Immunity of the Tribe.

(a) All inherent sovereign rights of the Tribe as a federally-recognized Indian tribe with respect to the existence and activities of the Corporation are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court.

(b) Except as provided in § 218 below, nothing in this Charter nor any action of the Corporation shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Corporation or the Tribe, or to be a consent of the Tribe to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe; or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment or encumbrance of any such land.

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§ 218. Waiver of Sovereign Immunity of the Corporation.

(a) Sovereign immunity of the Corporation may be waived only by express resolutions of both the Corporation and the GTB Tribal Council after consultation with the Tribe's attorneys.

(b) All waivers of sovereign immunity must be preserved by resolutions of the Corporation and the Tribal Council of continuing force and effect.

(c) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Corporation.

(d) Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Corporation subject thereto, court having jurisdiction pursuant thereto and law applicable thereto.

(e) Neither the power to sue and be sued provided in § 211(s), Corporate Powers, nor any express waiver of sovereign immunity by resolution of the Corporation shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Corporation other than property specifically pledged or assigned, or a consent to suit with respect to any land within the exterior boundaries of the Reservation or a consent to the alienation, attachment or encumbrance of any such land.

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PART 8
Sole Shareholder

§ 219. Sole Shareholder.

The sole shareholder of the Corporation shall be the Grand Traverse Band.

§ 220. Shareholder Shall Act Through Its Tribal Council.

The sole shareholder shall act through its Tribal Council pursuant to the laws of the Grand Traverse Band.

§ 221. Annual Meeting.

(a) The annual meeting of the shareholder shall be held on the 20th day in the month of June beginning with the year 1997, at the hour of 10:00 a.m., for the purpose of appointing Directors and the transaction of any business that may come before the meeting.

(b) If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the next succeeding business day.

(c) If the appointment of Directors shall not be held on the date designated herein for any meeting of the shareholder, or at any adjournment thereof, the Board of Directors shall cause the appointment to be held at a special meeting of the shareholder as soon thereafter as is convenient.

§ 222. Special Meetings.

(a) Special meetings of the shareholder, for any purpose or purposes, unless otherwise prescribed by applicable law, may be called by a majority of the Directors, upon 10 days' notice to the shareholder, such notice to contain a statement of the business to be transacted at such meeting, and to be served personally or mailed through the U.S. Post Office addressed to the Tribal Chair of the Grand Traverse Band; but at any meeting of the Tribal Council of the Grand Traverse Band at which a quorum of the Tribal Council is present, the giving of notice as above described may be dispensed with.

(b) Any business, in addition to that specified in the notice of the meeting, may be transacted at any special meeting of the shareholder with the consent of the Tribal Council of the Grand Traverse Band.

§ 223. Voting.

At all meetings of the shareholder all questions shall be determined in the manner provided by the laws of the Grand Traverse Band for actions of its Tribal Council, or by any applicable federal law.

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PART 9
Board of Directors

§ 224. Affairs and Management of the Corporation.

The affairs and management of the Corporation shall be under the control of its Board of Directors, which shall have the full power and authority to manage and operate the Corporation in accordance with this Charter of Incorporation.

§ 225. Number.

The initial Board of Directors shall consist of seven members appointed by the Tribal Council of the Grand Traverse Band, but the number of Directors may thereafter be increased or decreased at any time by a duly adopted resolution of the shareholder.

§ 226. How Appointed.

(a) At the annual meeting of the shareholder, the seven persons appointed by the Tribal Council shall be Directors and shall constitute the Board of Directors for the ensuing year.

(b) The Tribal Council at the annual meeting of the shareholder shall designate one member of the Board of Directors as the Chairperson of the Board of Directors and one member of the Board of Directors as the Vice Chairperson.

§ 227. Term of Office.

(a) The Directors shall be appointed for terms of two years each, and until his or her successor has been duly nominated and elected and has qualified and taken office.

(b) A Director may serve any number of consecutive two-year terms for which he or she is appointed.

§ 228. Qualifications of Directors. [History: Amended Tribal Act #00-18.856, enacted by Tribal Council on May 2, 2000, retroactive to October 23, 1998.]

(a) All Directors shall be members of the Grand Traverse Band, as determined by the laws of the Grand Traverse Band.

(b) All Directors must pass a mandatory background investigation to determine their suitability for the directorship position.

(1) A felony conviction, theft-related misdemeanor or the commission and/or conviction of a crime of violence shall be disqualifying.

(c) No employee of the Corporation managed enterprises shall be eligible to serve as a Director during the time of such employment.

§ 229. Duties of Directors.

(a) The Board of Directors shall manage the general affairs and business of the Corporation.

(b) The Directors shall in all cases act as a Board of Directors, regularly convened, by a majority vote, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Corporation as they may deem proper, not inconsistent with this Charter of Incorporation, the

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Bylaws of the Corporation, and applicable Tribal or federal law.

(c) The Vice-Chairperson shall assume the duties of the Chairperson in the absence of the Chairperson.

§ 230. Director's Meetings.

(a) Regular meetings of the Board of Directors shall be held immediately following the annual meetings of the shareholder.

(b) Special meetings of the Board of Directors may be called by the Chairperson of the Board of Directors or the C.E.O. of the Corporation at any time, and shall be called by the President or the Secretary upon the request of two Directors.

§ 231. Notice of Meetings.

(a) Notice of meetings, other than the regular annual meeting, shall be given by service upon each Director in person, or by mailing to the last known post office address of the Director, at least 10 days before the date therein designated for such meeting, including the day of mailing, of a written or printed notice thereof specifying the time and place of such meeting, and the business to be brought before the meeting.

(b) At any meeting at which every member of the Board of Directors shall be present, whether held with or without notice, any business may be transacted which might have been transacted if the meeting had been duly called.

§ 232. Quorum.

At a meeting of the Board of Directors, a majority of the Board shall constitute a quorum for the transaction of business; but in the event of a quorum not being present, a lesser number may adjourn the meeting from time to time without further notice.

§ 233. Voting.

At a meeting of the Board of Directors, each Director shall have one vote.

§ 234. Presumption of Assent.

(a) A Director who is present at a meeting of the Board of Directors at which action on any matter is taken shall be presumed to have assented to the action taken, unless a dissent to such action shall be entered in the minutes of the meeting, or unless the Director shall file a written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered or certified mail to the Secretary of the Corporation immediately after the adjournment of the meeting.

(b) Such right to dissent shall not apply to a Director who voted in favor of such action.

§ 235. Resignation and Removal of Directors.

(a) Any Director may resign at any time by giving written notice to the C.E.O. of the Corporation, and such resignation shall be effective on the date specified in the notice.

(b) Any one or more of the Directors may be removed either with or without cause, at any time by a vote

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of the shareholder, at any special meeting of the shareholder called for that purpose, or at the annual meeting of the shareholder.

§ 236. Vacancies.

(a) Whenever any vacancy shall occur in the Board of Directors by death, resignation, removal, or otherwise, the same shall be filled without undue delay by the shareholder at a special meeting which shall be called for that purpose.

(b) Such appointment shall be held within 60 days after the occurrence of such vacancy.

(c) The person so appointed shall hold office until the next annual meeting of the Board of Directors and until his or her successor shall have been duly nominated and appointed, and shall have qualified and taken office.

§ 237. Action Without a Meeting.

Any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the Board of Directors.

§ 238. Initial Board of Directors.

The initial Board of Directors of the Corporation shall consist of the following persons, who shall serve until the first annual meeting of the shareholder and thereafter until their successors have been duly nominated and appointed, and shall have qualified and taken office:

Name	Address
George E. Bennett, Tribal Chairman	2605 N. West Bayshore Drive Suttons Bay, MI 49682
[1 Tribal Councilor]	
[5 Tribal members appointed by Tribal Council]	

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PART 10
Officers

§ 239. General.

(a) The officers of the Corporation shall be employees of the Grand Traverse Band Economic Development Corporation.

(b) The officers shall be Chief Executive Officer, Assistant Executive Officer, Chief Financial Officer and Treasurer, Secretary and Records Keeper, and General Counsel.

(c) The Board of Directors may by resolution add additional officer positions at any time and appoint qualified candidates to fill such positions.

§ 240. Appointment. [History: As amended by Res. # 03-024, enacted by the Economic Development Corporation on October 7, 2003.]

All officers of the Corporation shall be appointed by the Board of Directors annually, at the Regular Meeting of the Board of Directors to be held immediately following the annual meeting of the shareholder, to serve for a term ending on the next annual Regular Meeting, or until such officers or their successors are duly elected and are qualified. The initial term of any officer appointed at a different meeting, or by consent of the Board, as provided herein, shall serve until the next annual Regular Meeting of the Board of Directors.

§ 241. Resignation and Removal of Officers.

(a) Any officer may resign at any time by giving written notice to the Chairperson of the Board of Directors, and such resignation shall be effective on the date specified in the notice.

(b) Any one or more of the officers may be removed with or without cause, at any time, by a majority vote of the Board of Directors at any special meeting called for that purpose, or at the annual meeting.

(c) The terms of the officers employment contract shall be honored as liquidated damages.

§ 242. Vacancies.

All vacancies in any office shall be filled by the Board of Directors without undue delay, at any regular meeting or at a meeting specially called for that purpose, for the unexpired portion of the term.

§ 243. The Chief Executive Officer.

(a) The C.E.O. shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation on a day-to-day basis.

(b) He or she shall, when present, preside at all meetings of the Board of Directors.

(c) He or she may sign, without the Secretary or other officer of the Corporation, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of chief executive

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officer and such other duties as may be prescribed by the Board of Directors from time to time.

§ 244. The Assistant Executive Officer.

(a) In the absence of the C.E.O., or in the event of his or her death or inability to act, the Assistant Executive Officer (or in the event there be more than one A.E.O., the A.E.O. in the order designated at the time of their appointment, or in the absence of any designation, then in the order of their appointment), shall perform the duties of the C.E.O., and when so acting, shall have all the powers of and be subject to all the restrictions upon the C.E.O.

(b) Any A.E.O. shall perform such other duties as from time to time may be assigned to him or her by the Board of Directors.

§ 245. The Secretary and Records Keeper.

The Secretary shall:

(a) Keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose;

(b) See that all notices are duly given in accordance with the provisions of this Charter of Incorporation, or as required by law;

(c) Be custodian of the corporate records and of the seal of the Corporation and see that the seal of the Corporation is affixed, if required by law or if otherwise appropriate, to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; and

(d) In general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Board of Directors.

§ 246. The Chief Financial Officer and Treasurer.

(a) The C.F.O. Treasurer shall:

(1) Have charge and custody of and be responsible for all funds and securities of the Corporation;

(2) Receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and

(3) In general perform all of the duties incident to the office of C.F.O. Treasurer and such other duties as from time to time may be assigned to him or her by the Board of Directors.

(b) If required by the Board of Directors, the C.F.O. Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

§ 247. General Counsel.

The General Counsel shall provide legal advice and opinions on corporate matters of the Corporation and act as the legal representative of the Corporation in all matters related to the management or litigation conducted by the Corporation or filed against the Corporation.

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§ 248. Salaries or Other Compensation.

The salaries or other compensation of the officers shall be fixed from time to time by the Board of Directors.

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PART 11
Indemnification of Directors, Officers, Employees, and Agents

§ 249. Liability Indemnification.

The Corporation shall indemnify any current or former Director, officer, employee, or agent of the Corporation, or any person who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, limited liability company, or other enterprise, against any liability asserted against him or her, including all reasonable expenses actually and necessarily incurred by him or her in connection therewith in the defense of any action, suit, or proceeding in which he or she is made a party, or is threatened to be made a party, by reason of being, or having been such a director, officer, employee, or agent, and the reasonable costs of settlement of any such action, suit, or proceeding, whether pending or threatened, if a majority of the Board of Directors not seeking indemnification shall determine in good faith:

(a) That such person did not act, fail to act, or refuse to act willfully or with gross negligence, or with fraudulent or criminal intent.

(b) That any legal fees paid or any settlements made are reasonable.

(c) That the person seeking indemnification did not act beyond the scope of his or her employment or office.

§ 250. Defense Costs Reimbursement.

(a) The Corporation shall also reimburse any current or former Director, officer, employee, or agent of the Corporation, or any person who may have served at its request as a director, officer, employee, or agent of another corporation, partnership, limited liability company, or other enterprise, for reasonable costs of defense and of settlement of any such action, suit, or proceeding, whether pending or threatened, if it shall be found by a majority of the Board of Directors, other than Board members involved in the matter in controversy, that it is in the best interests of the Grand Traverse Band that such settlement be made and that:

(1) Such person did not act, fail to act, or refuse to act, willfully or with gross negligence, or with fraudulent or criminal intent, and

(2) That any legal fees paid or any settlements made are reasonable.

(b) In the event that less than a quorum of the Board of Directors is not involved in the matter in controversy within the meaning of § 249 or § 250(a), the decision whether to indemnify Board members under § 249 or to reimburse Board members under § 250(a) shall be made by the Tribal Council of the Grand Traverse Band.

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PART 12
Ownership of Corporation

§ 251. GTB Sole Owner and Shareholder.

(a) The Corporation shall be wholly owned by the Grand Traverse Band for the benefit of the Grand Traverse Band and its members.

(b) The Grand Traverse Band shall be the sole shareholder of the Corporation.

(c) No individual or other legal entity, except only the Grand Traverse Band, shall acquire any shares of the Corporation.

§ 252. Exercise of Ownership Rights.

(a) The sole shareholder shall exercise its ownership rights through its Tribal Council, in accordance with applicable Tribal law.

(b) No individual member of the Tribal Council of the Grand Traverse Band, or individual member of the Grand Traverse Band, or any other person whomsoever, shall be recognized as acting as or on behalf of the sole shareholder.

§ 253. Prohibition on Sale or Transfer of Shares without Consent.

The sole shareholder shall be the Grand Traverse Band, and no interest in the shares of the Corporation may be sold, transferred, pledged, or hypothecated, either voluntarily or involuntarily, without the prior written consent of the Grand Traverse Band Tribal Council, and the approval of the Secretary of the Interior.

§ 254. Tribal Council as Shareholder Representative.

(a) The sole right and authority to represent the Grand Traverse Band in voting its shares in the Corporation shall be vested in the Grand Traverse Band Tribal Council.

(b) The decision of a majority of the members of the Grand Traverse Band Tribal Council voting at any duly called and noticed meeting at which a quorum is present, or otherwise in accordance with the Grand Traverse Band Constitution, shall be the decision and vote of the Grand Traverse Band in exercise of its authority as the sole shareholder of the Corporation.

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PART 13
Dividends

§ 255. Profit Declaration and Distribution.

(a) The Board of Directors shall declare and pay profits in accord with the Revenue Allocation Ordinance of the Grand Traverse Band.

(b) Non-gaming retained earnings, or other available funds of the Corporation may be declared and paid whenever, in Board of Director's opinion, the condition of the Corporation's affairs will render it expedient for such dividends to be declared and paid; provided that no distribution may be made if:

(1) The Corporation would not be able to pay its debts as they become due in the usual course of its business; or

(2) The Corporation's total assets would be less than the sum of its total liabilities.

§ 256. Dividends from Non-Gaming Funds.

All dividends from non-gaming funds declared by the Board of Directors shall be paid to the Grand Traverse Band as the sole shareholder.

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PART 14
Books and Records; Financial Reports

§ 257. Books and Records.

(a) The Corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors.

(b) Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

§ 258. Financial Reports.

(a) The Corporation must file an annual audited financial statement with the Tribal Council.

(b) The audited financial statement must include all income from whatever sources, including but not limited to federal, state or private grants, enterprises, profits, and all expenditures of whatever nature.

(c) All financial records of the Corporation are considered the public property of the Grand Traverse Band of Ottawa and Chippewa Indians.

(d) Access to the financial records shall be determined and controlled by the Grand Traverse Band Tribal Council.

(1) In no event shall access to financial records be denied to a Tribal Councilor acting pursuant to Tribal Council authority.

(2) Such financial statements may be consolidated statements of the Corporation and one or more of its subsidiaries.

§ 259. Maintenance of Financial Records.

The Corporation shall maintain its financial records in conformity with generally accepted accounting principles.

§ 260. Reports to Shareholders.

The Board of Directors of the Corporation shall, no less frequently than quarterly, report in writing to the shareholder on the financial and operating condition of the Corporation, including its assets, liabilities, and operating results.

§ 261. Financial and Operating Records.

The financial and operating records of the Corporation shall at all reasonable times be open to inspection by the representative(s) of the shareholder designated by resolution of the Tribal Council of the Grand Traverse Band.

§ 262. Audited Financial Statements.

The Corporation shall, within 120 days following the close of the Corporation's fiscal year, submit to the shareholder an audited (or unaudited if approved by the shareholder) financial statement reflecting the financial status of the Corporation as of the last day of the Corporation's fiscal year.

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PART 15
Insurance

§ 263. Insurance Coverage.

(a) All appropriate insurance, including comprehensive general liability, physical damage, and workers' compensation insurance, reasonably sufficient to protect the interests of the Corporation and the Grand Traverse Band from all insurable liability and other risks shall be carried on all enterprises, properties, and persons under the jurisdiction or management of the Corporation, including all employees of the Corporation, insofar as such insurance is reasonably obtainable by the Corporation.

(b) The Corporation shall have the power to obtain and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, limited liability company, or other enterprise, against all liability asserted against him or her and incurred by him or her in such capacity or arising out of his or her status in such capacity.

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PART 16
Principal Office and Agent for Service of Process

§ 264. Principal Office Address; Agent for Service of Process.

(a) The address of the principal office of the Corporation shall be the Grand Traverse Band Economic Development Corporation, 2331 N. West Bayshore Drive, Suttons Bay, Michigan 49682, the mailing address being the same as the aforementioned address.

(b) The agent of the Corporation for service of process and otherwise at such address is the C.E.O.

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PART 17
Claims Against the Corporation

§ 265. Assets and Properties of Grand Traverse Band.

Nothing in this Charter of Incorporation shall be construed as creating or recognizing any right to encumber, levy, affix, adjudicate, or take judgment against any assets or properties of the Grand Traverse Band for any action, adjudication, or other determination of liability of any nature incurred by the Corporation, but all assets and properties of the Corporation shall be available for such purpose, subject to valid prior liens, if any.

§ 266. Waiver on Part of Corporation not Waiver on Part of GTB.

(a) The waiver by the Corporation of any defense of sovereign immunity shall not be construed as a waiver of the sovereign immunity of the Grand Traverse Band, nor shall any such waiver by the Corporation create any liability on the part of the Grand Traverse Band for the debts and obligations of the Corporation.

(b) Any exercise by the Corporation of its power to sue shall not be construed to suit by or against, or to the attachment of any asset of, the Grand Traverse Band.

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PART 18
Amendment of Charter of Incorporation

§ 267. Petitioning for Amendments; Secretarial Approval.

The authority to petition for amendments to this Charter of Incorporation is vested in the Tribal Council of the Grand Traverse Band, but such amendments shall have no legal effect until approved by the Secretary of the Interior and ratified by the Tribal Council of the Grand Traverse Band, as the governing body of the Grand Traverse Band, in accordance with 25 U.S.C. § 477, as amended, and in accordance with applicable Tribal law.

§ 268. Tribal Council Final Decisionmaker for Amendments. [History: Federal charter signed by Kevin Gover, Assistant Secretary of the Interior for Indian Affairs, on October 23, 1998.]

The Board of Directors may request the Tribal Council of the Grand Traverse Band to petition the Secretary of the Interior for amendments to this Charter of Incorporation, but the final decision on submitting any such petition shall be made by the Tribal Council of the Grand Traverse Band.

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Authority of Grand Traverse Band, MI

Chapter 3
(Reserved)

[History: Former Chapter 3, Wages For Tribal Enterprise Employees, Adopted By Tribal Act #90-823, Enacted By Tribal Council On March 31, 1990, Was REPEALED By Tribal Act #97-15.511, Enacted By Tribal Council On November 10, 1997.]

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Chapter 4
GTB Construction Company

§ 401. Establishment of GTB Construction Company. [History: Tribal Act #89-764, enacted by Tribal Council on September 16, 1989.]

(a) The Tribal Council hereby charters the GTB Construction Company for the purposes of developing a construction enterprise with independent authority to bid on construction projects within the Tribe's federal reservation and six county services area.

(b) Said GTB Construction Company shall be governed by the attached By-Laws, adopted and approved by the Grand Traverse Band Tribal Council.

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Chapter 5
GTB Rental And Leasing Company

§ 501. Establishment of GTB Leasing Company. [History: Tribal Act #83-155, enacted by Tribal Council on December 16, 1983.]

The Grand Traverse Band establishes the "GTB Rental and Leasing Company" for the purposes of purchasing and renting/leasing supplies and equipment both within and outside the Tribal administrative structure.

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Authority of Grand Traverse Band, MI

Chapter 6
(Reserved)

[History: Former Chapter 6 - Exclusive Monopoly License And Credit Enhancement Adopted By Tribal Act #03-21.1228, Enacted By Tribal Council Polling On March 27, 2003; As Amended 11-19-2003 By Tribal Act #03-21.1327, Was REPEALED By Tribal Council On 2-16-2006 By Tribal Act #06-24.1635.]

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Chapter 7
Transfer Of Assets Ordinance

§ 701. Definitions. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

When used in this Ordinance, the following terms have the following meanings:

(a) "Compact" means the Tribal-State Compact Between the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan, concerning which approval by the Secretary of Interior was published on November 30, 1993, in the Federal Register (58 Fed. Reg. 63262), as the same may be amended or supplemented from time to time, and any replacement or substitute therefor.

(b) "Effective Date" means the first date on which each of the following shall have occurred: (i) this Ordinance has been duly adopted by the Tribal Council and declared effective immediately in accordance with 1 GTBC § 108(a); and (ii) all licenses required under the Compact, IGRA or any other applicable law or regulation required for the EDC to engage in the gaming business have been obtained in the name of the EDC.

(c) "EDC" means the Grand Traverse Band Economic Development Corporation organized in accordance with Section 17 of the Indian Reorganization Act (25 U.S.C. § 447) on October 23, 1998.

(d) "EDC Board" means the governing body of the EDC.

(e) "Financing" means the "Financing" defined in the document entitled "Grand Traverse Band of Ottawa and Chippewa Indians: $85,000,000 Senior Secured Credit Facilities," dated February 2003, and prepared by National City and Banc One Capital Markets, Inc.

(f) "Financing Documents" means the "Financing Documents" defined in Tribal Council Resolution No. 03-21.1220, dated March 24, 2003, as the same may be amended or supplemented from time to time.

(g) "Gaming Business" means Class II and Class III gaming (as such terms are defined in IGRA) and resort business and any activity or business incidental, directly related or similar thereto, or any business or activity that is a reasonable extension, development or expansion thereof or ancillary thereto, including any hotel, entertainment, recreation or other activity or business designed to promote, market, support, develop, construct or enhance the casino gaming and resort business operated by or on behalf of the Tribe or the EDC.

(h) "Gaming-Related Personal Property" means all property and property interests of any nature (other than real property or interests in real property) used or intended to be used on or after the effective date in the gaming business.

(i) "Gaming-Related Obligations" means all obligations of any nature, whether arising from contract, indebtedness owing or otherwise, of the Tribe or any agency, enterprise, authority, controlled entity or instrumentality of the Tribe, arising from or incurred in connection with the gaming business; payable from revenues of the gaming business; or secured by gamingrelated personal property.

(j) "Gaming-Related Rights" means all rights of any nature, whether arising from contract, indebtedness owing or otherwise, of the Tribe or any agency, enterprise, authority, controlled entity or instrumentality of the Tribe, arising from or related in any manner to the gaming business.

(k) "IGRA" means the federal Indian Gaming Regulatory Act of 1988, Public Law 100-497, as amended from time to time.

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(l) "Tribal Constitution" means the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians adopted by members of the Tribe and certified by the Assistant Secretary of the Interior on or about March 29, 1988, as duly amended from time to time.

(m) "Tribal Council" means the Tribal Council referred to in the Tribal Constitution.

(n) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians, a federally recognized Indian tribe.

§ 702. Tribal and EDC Authority. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

(a) Gaming Compact. The Tribe has a gaming compact with the State of Michigan to conduct Class III gaming that was approved by the Secretary of the Interior on November 30, 1998.

(b) Gaming Code. The Tribe implements and administers the Gaming Code (Grand Traverse Band Code, Title 18). The Gaming Code was approved by the National Indian Gaming Commission on June 13, 1994 (Letter from Anthony J. Hope to John F. Petoskey) and, as amended, on July 28, 1997 (Letter from Thomas J. Foley to Richard Bailey).

(c) GTB Gaming Commission. The Tribe established a Gaming Commission (see 18 GTBC, Chapter 4) to regulate and license gaming authorized in accordance with the Compact and the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701 et seq.) and the implementing regulations promulgated by the National Indian Gaming Commission (25 CFR Parts 500-599).

(d) License. The GTB Gaming Commission licenses the EDC to operate Class III gaming facilities and licenses employees of the Class III gaming facilities. The GTB Gaming Commission also regulates gaming consistent with the regulations of the National Indian Gaming Commission. The GTB Gaming Commission has implemented (1) procedures for background investigations and licensing of key employees; and (2) minimum internal control standards for casino operations in accordance with the regulations of the National Indian Gaming Commission.

(e) NIGC Approval. The National Indian Gaming Commission approved the Gaming Code on June 13, 1994 and, as amended, on July 28, 1997.

§ 703. Conveyance of Property and Rights; Assumption of Obligations; Access to Tribal Lands. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

(a) On the effective date, without further action or instrument:

(1) All right, title and interest of the Tribe in all gaming-related personal property and gaming-related rights shall be thereupon transferred to and vested in the EDC;

(2) The EDC shall assume and thereafter faithfully discharge all gaming-related obligations, holding the Tribe harmless from any failure of the EDC to perform or comply with the obligations so assumed; and

(3) The Tribe shall cease to employ or engage, and the EDC shall thereupon commence to employ and engage upon the same terms as the Tribe, all employees, agents, consultants, and independent contractors employed or engaged by the Tribe in connection with the gaming business immediately before the effective date.

(b) On and after the effective date, the EDC shall have all rights of access to the lands owned by, leased

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or licensed to or held in trust for the Tribe, including any improvements thereon, that are necessary or desirable to permit the EDC to exercise its powers as herein permitted or otherwise carry out the purposes of this Ordinance.

(c) As promptly as practicable on or after the effective date, the EDC shall seek to obtain all third-party consents required by any agreement or instrument relating to the foregoing, and take all actions as are necessary or appropriate to effectuate this Ordinance, including the transfer of all bank and securities accounts that are a part of the gaming-related personal property.

§ 704. Enumerated Powers. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

The EDC shall have the following powers with respect to the gaming business, which powers may be exercised in the name of the EDC upon such terms as the EDC shall determine, but which powers may not be exercised in contravention of the financing documents:

(a) To receive, collect and own all revenues and to pay all expenses and expenditures, subject to the obligation to distribute revenues as provided in this Ordinance;

(b) To open and maintain deposit, securities or other accounts with banks or other financial institutions, which accounts shall be separate from the accounts of the Tribe, and no assets in such accounts shall be commingled with the assets of the Tribe;

(c) To acquire by gift, lease or otherwise, and own any now existing or hereafter acquired property or property interest of any nature, and to dispose of by any lawful means any now existing or hereafter acquired property or property interest of the EDC;

(d) To employ all now or hereafter existing gaming-related employees and employ or engage any agents, consultants, or independent contractors, including attorneys and accountants;

(e) To enter into any contract or agreement of any nature with any other party or parties;

(f) To make any filing or file any report or application with any Tribal, state or federal authority;

(g) To incur any form of indebtedness or obligation, including through issuance of debt securities or by means of a guarantee, and to pledge as security for the same any property or rights of the EDC, other than any interest in real property;

(h) To sue and, subject to 15 GTBC § 706 of this Ordinance, to waive the sovereign immunity of the EDC and to agree to and engage in any dispute resolution process;

(i) To develop, construct or equip facilities for use or useful to the gaming business;

(j) To undertake the "Project" and the "Financing" referred to in Tribal Council Resolution No. 03-21.1220, dated March 24, 2003, and to execute, deliver and perform the "Financing Documents" referred to therein;

(k) To take any other action deemed necessary, appropriate or convenient by the EDC for the operation of the gaming business; and

(l) To take any other action as shall be expressly authorized or directed by the Tribal Council.

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Any exercise by the EDC of any powers or authority in accordance with this Ordinance shall constitute the exercise of a governmental function of the Tribe.

§ 705. Enumerated Limitations. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

Notwithstanding any other provision in this Ordinance, the EDC shall not take any of the following actions without written authorization from the Tribal Council:

(a) Waive or purport to waive the sovereign immunity of the Tribe;

(b) Pledge as security for any debt or other obligation any revenues or assets of the Tribe;

(c) Bind the Tribe or create any obligation or liability of the Tribe;

(d) Terminate the operation of any material portion of the gaming business; and

(e) Convey or encumber any interest in real property.

§ 706. Application of Revenues. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

All revenues derived from the gaming business that are not required to be applied to or reserved for the operation of the business (including the payment of principal, interest or other amounts on debt of the EDC) or maintenance of related facilities and reserves shall be distributed to the Tribe or its members in accordance with Tribal law. Notwithstanding the foregoing, no revenues of the EDC shall be distributed to the Tribe in contravention of the financing documents referred to in Tribal Council Resolution No. 03-21.1220, dated March 24, 2003.

§ 707. Records and Audits. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

The EDC shall maintain such books and records with respect to its operations as are customary or required by any applicable legal requirement. The EDC shall cause annual audits of the gaming business in compliance with generally accepted auditing procedures and the preparation of financial statements based thereon in accordance with generally accepted accounting principles, IGRA and the Compact.

§ 708. Miscellaneous. [History: Tribal Act #03-21.1222, enacted by Tribal Council in Special Session on March 24, 2003.]

(a) To the extent reasonable, this Ordinance shall be read and interpreted in a manner that is consistent with the Tribal Constitution, but in the event of any inconsistency, the provisions of the Tribal Constitution shall control.

(b) Subject to Subsection (a) of this Section, all provisions of any law, statute, ordinance, resolution or action of the Tribe that are inconsistent with or would frustrate the intent of this Ordinance are hereby repealed.

(c) This Ordinance shall become effective as the law of the Tribe for all purposes on the effective date.

(d) The rights and powers of the EDC created by this Ordinance with respect to the gaming business and the gaming-related personal property shall be exclusive as between the EDC, the Tribe and any other

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any branch, department, agency, instrumentality, division, subsidiary, enterprise, authority, subsidiary or enterprise of the Tribe.

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Chapter 8
Grand Traverse Band Tribal Limited Liability Company Code

PART 1
General Provisions

§ 801. Short Title. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

This Title shall be known as the "Grand Traverse Band Tribal Limited Liability Company Code."

§ 802. Authority; Purposes; Sovereign Immunity. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) This Code is enacted pursuant to the Grand Traverse Band's inherent sovereign powers and as specifically authorized by the Constitution and Bylaws of the Tribe.

(b) The purpose of this Code is to provide for economic development of the Grand Traverse Band and its members by:

(1) Providing the legal framework for organizing individually-owned business entities in order to expand the private business sector on Tribal Lands; and

(2) Authorizing the formation of wholly-owned Tribal business entities for managing the Tribe's economic activities separate from the general affairs of its Tribal Council, with the ability to enter into legally-binding contracts and commercial relationships without the need for formal Tribal Council action.

(c) By the adoption of this Code, the Tribe does not waive its sovereign immunity or consent to suit in any court, federal, tribal or state; and neither the adoption of this Code, nor the incorporation of any limited liability company hereunder, shall be construed to be a waiver of the sovereign immunity of the Tribe or a consent to suit against the Tribe in any court.

§ 803. Scope. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

This Code shall apply to all limited liability companies organized under its provisions or that elect to accept the provisions of this Code.

§ 804. Applicable Law. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The companies organized and created under this Code shall be subject to this Code, and all other laws of the Tribe except as stated in the next paragraph of this section. By organizing and creating a company under this Code, the company and its owners shall be considered to have entered into a consensual relationship with the Tribe and agree to be subject to the full extent of the Tribe's legislative, regulatory, and adjudicatory jurisdiction. Unless displaced by particular provisions of this Code or other Tribal law, the principles of law and equity supplement this Code.

(b) All Tribal ordinances or other laws inconsistent with this Tribal limited liability company Code are hereby repealed only to the extent that such ordinances or laws would otherwise apply to companies organized and created under this Code. To the extent that this Code provides differently than any other Tribal law governing any limited liability company created under this Code, this Code shall govern. This provision shall apply generally to Tribal ordinances and laws and specifically to Title 6

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of the Grand Traverse Band Code, known as the Grand Traverse Band of Ottawa and Chippewa Indians Sovereign Immunity Waiver Ordinance.

§ 805. Definitions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Terms used in this Code have the following meanings:

(a) "Articles of Organization" means the articles filed under Section 815 and those articles as amended or restated.

(b) "Corporation" means a domestic corporation for profit organized under the law of the Tribe or a foreign corporation formed under the laws of any other jurisdiction.

(c) "Distribution" means a direct or indirect transfer by a limited liability company of money or other property to or for the benefit of its owners in respect of their interests.

(d) "Entity" includes an individual, a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

(e) "Foreign" refers to limited liability companies, corporations, and limited partnerships organized under the laws of a jurisdiction other than the Tribe.

(f) "Limited liability company" or "domestic limited liability company" means an organization formed under this Code, except as provided for in Section 854(a).

(g) "Limited liability company interest" or "interest in the limited liability company" or "owner's interest" means an owner's rights in the limited liability company, including rights to distributions, profits and losses, and to participate in management, as specified in the operating agreement.

(h) "LLC" means a limited liability company.

(i) "Majority in interest" means an owner or owners holding more than 50% of the total voting interests in the limited liability company, excluding any interest which is not to be counted as voting on a matter as described elsewhere in this Code.

(j) "Manager" or "managers" means the person(s) or entity(ies) designated to manage the LLC pursuant to the Articles of Organization and operating agreement.

(k) "Office of the Secretary" means the Office of the Secretary of the Tribal Council as provided by Article III of the Tribal Constitution, or that individual's designee.

(l) "Operating agreement" means an agreement in writing among all of the owners as to the conduct of the business of a limited liability company and its relationships with its owners.

(m) "Organizer(s)" means the person(s) or entity(ies) which signs and delivers the Articles of Organization for filing to the Office of the Secretary.

(n) "Owner" means a person that is a member of a limited liability company or has ownership interest in a limited liability company. The term does not include a person that has dissociated as an owner under Section 828.

(o) "Person" includes a natural person, Tribal entity and an organization such as a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association,

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or a corporation.

(p) "Secretary of the Tribe" means the individual duly elected to the position of Secretary of the Tribal Council, or that individual's designee.

(q) "State" includes a state, territory, or possession of the United States, and the District of Columbia.

(r) "Tribal Constitution" means the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

(s) "Tribal corporation" means a corporation wholly owned by the Tribe and duly formed pursuant to a Section 17 Charter, a Tribal Resolution, a Business corporation Code adopted by the Tribe, or other law.

(t) "Tribal Council" means the Tribal Council as established by Article III of the Tribal Constitution as the governing body of the Tribe.

(u) "Tribal Court" means the Grand Traverse Band Tribal Court as established by Article V of the Tribal Constitution.

(v) "Tribal entity" includes the Tribe, the Tribal Council, a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, a program, a department, an administrative agency or any other legal, commercial or governmental entity of the Tribe.

(w) "Tribal Lands" means lands owned by the Grand Traverse Band of Ottawa and Chippewa Indians; lands owned by the United States of America in trust for the Grand Traverse Band of Ottawa and Chippewa Indians; and lands within the exterior boundaries of the Grand Traverse Band Reservation.

(x) "Tribally-owned LLC" means a limited liability company wholly owned by the Tribe with the Tribe as its sole owner.

(y) "Tribally-owned second tiered subsidiary LLC" means a limited liability company wholly owned by a Tribally-owned subsidiary LLC.

(z) "Tribally-owned subsidiary LLC" means a limited liability company wholly owned by a Tribally-owned LLC.

(aa) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(bb) "Trust Land" means land held in trust by the United States for the benefit of the Tribe or its members.

§ 806. Name. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The name of a limited liability company as set forth in its Articles of Organization must contain the words "limited liability company" or end with the abbreviation "L.L.C." or "LLC." The name may not contain language stating or implying that the limited liability company is organized for any purpose other than that permitted under Section 809, below.

(b) The name of a domestic LLC shall be distinguishable from any LLC or corporation previously organized under the laws of the Tribe.

§ 807. Registered Office and Registered Agent. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

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(a) A limited liability company's registered agent is the company's agent for receiving service of process, notice, or demand required or permitted by law to be served on the company under the laws of the Tribe.

(b) Each LLC shall continuously maintain a registered office and a registered agent. The registered office may, but need not be, the same as any of its places of business. The agent may be the same person then serving in a designated office of the Tribe rather than a specified person if the Tribe is an owner in the LLC of which the Tribe's officer is the appointed agent.

(c) An LLC may change its registered office or registered agent, or both, by filing a written notice of change containing the name of its registered agent and the street address of its registered office, as changed, with the Office of the Secretary and paying the filing fee.

(d) The registered agent of an LLC may resign as a registered agent by delivering to the Office of the Secretary for filing a written statement of resignation and the appointment by the LLC of another registered agent.

§ 808. Tribe as an owner. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The Tribe shall form or become an owner of a Tribally-owned LLC formed under this Code only upon approval of such action by duly enacted resolution of the Tribal Council.

(b) If the Tribe or a Tribal entity is an owner of an LLC formed under this Code, any action which the Tribe is required or permitted to take with respect to any vote, approval, consent, appointment, direction, or other matter shall be taken as specified in Section 882 of this Code or, as to actions related to the managers of a manager-managed LLC, as stated in the LLC's operating agreement approved by the Tribal Council or, if applicable, as approved by the Board of Directors of a Tribally-owned LLC or Tribal entity.

(c) If the Tribe is the sole owner of an LLC formed under this Code, such Tribally-owned LLC shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity from suit except to the extent otherwise provided in its operating agreement.

(d) If a Tribally-owned LLC, of which the Tribe or a Tribal entity is the sole owner, forms a Tribally-owned subsidiary LLC, of which the Tribally-owned LLC is the sole owner, such Tribally-owned subsidiary LLC shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity from suit except to the extent otherwise provided in its operating agreement.

(e) If a subsidiary Tribally-owned LLC, of which the Tribally-owned LLC is the sole owner, forms a Tribally-owned second tier subsidiary LLC, such Tribally-owned second tier subsidiary LLC shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity from suit except to the extent otherwise provided in its operating agreement.

(f) If the Tribe or a Tribal entity is an owner with a majority in interest in an LLC formed under this Code, such LLC may possess the privileges and immunities of the Tribe, including sovereign immunity from suit, to the extent allowed by federal law, this Code or its operating agreement.

(g) In no event shall any manager who is not an owner of an LLC in which the Tribe is an owner, bind the Tribe in any manner; provided that the Tribe's interest as an owner may be bound by manager or owner actions as stated in this Code and the operating agreement of the LLC.

(h) Nothing contained in this Code shall be construed as creating any liability or waiving of sovereign

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immunity of the Tribe in any manner; provided that the assets of the LLC in which the Tribe holds an interest may be subject to liabilities and claims unless otherwise provided herein. In no event shall any action taken by the Tribe as owner concerning the exercise of any right or privilege or discharge of any duty with respect to an interest in an LLC be construed as a waiver of immunity or creation of a liability on the part of the Tribe separate and apart from its interests as an owner of the LLC.

(i) For all Tribally-owned limited liability companies, the additional provisions set forth in Part 9 of this Code shall apply.

§ 809. Nature of Business. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A limited liability company may be organized under this Code for any lawful purpose. Unless otherwise provided in its operating agreement, an LLC organized and existing under this Code has the same powers as an individual to do all things necessary and convenient to carry out its business, including, but not limited to, all of the following:

(1) Consent to be sued, complain and defend in its name; provided, however, that if an LLC is Tribally-owned, or wholly-owned by another entity which itself is wholly-owned by the Tribe or is a Tribally-owned second tier subsidiary LLC, it shall be entitled to and shall enjoy the Tribe's sovereign immunity from suit unless the operating agreement otherwise provides.

(2) Purchase, take, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal in or with real, or personal property or any legal or equitable interest in real or personal property, wherever situated.

(3) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange, or otherwise dispose of all or any part of its property.

(4) Lend money, property, and services to, and otherwise assist, its owners and managers, if any.

(5) Purchase, take, receive, subscribe for, or otherwise acquire and own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with shares or other interests in, or obligations of, any other enterprise or entity.

(6) Make contracts and guarantees; incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure any of its obligations by mortgage or pledge of all or part of its property, franchises, and income.

(7) Lend money, invest and reinvest its funds, and receive and hold real or personal property as security for repayment.

(8) Conduct its business, locate offices, and exercise the powers granted by this Code inside or outside of Tribal Lands.

(9) Be a promoter, incorporator, partner, owner, associate, or manager of any enterprise or entity.

(10) Elect or appoint managers, agents, and employees, define their duties, and fix their compensation.

(11) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, and benefit or incentive plans for any or all of its current or former owners, managers, employees, and agents.

(12) Make donations to and otherwise devote its resources for the public welfare or for charitable,

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scientific, educational, humanitarian, philanthropic, or religious purposes.

(13) Indemnify an owner, manager, employee, officer, or agent, or any other person.

(14) Provide benefits or payments to owners, managers, employees, and agents of the LLC, and to their estates, families, dependents, or beneficiaries in recognition of the past services of the owners, managers, employees, and agents of the LLC.

(15) Make payments or donations, or do any other act not prohibited by law, that further the business of the LLC.

(16) Transact any lawful business that the owners or the managers find to be appropriate to promote and further the business and affairs of the limited liability company, including the creation of subsidiary entities.

§ 810. Execution of Documents. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as otherwise provided in this Code, any document required or permitted by this Code to be delivered for filing in accordance with Section 811 shall be executed by any of the following:

(1) Any manager, if management of the LLC is vested in a manager or managers, or by an owner, if management of the LLC is reserved to the owners.

(2) All individuals that will be listed as organizers of the LLC in the documents that will be filed pursuant to Section 811. The name and address of each organizer shall be provided.

(3) The name of the drafter of the document.

(b) The person executing the document shall sign it and state beneath or opposite the signature the person's name and capacity in which the person signs.

(c) The person executing the document may do so as an attorney-in-fact. Powers-of-attorney relating to the executing of the document need not be shown to nor filed with the Office of the Secretary.

§ 811. Filing. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The Office of the Secretary shall receive all filings required under this Code and maintain the records of such filings pursuant to this section, including, but not limited to, the Articles of Organization, amended or restated articles, annual reports, names and addresses of registered offices and agents, and, in the case of Tribally-owned LLCs, the operating agreement and amendments thereto, and other reports required by this Code.

(b) Upon receipt of a document for filing under this Code, the Office of the Secretary shall ensure it meets the requirements herein and then shall stamp or otherwise endorse the date and time of receipt of the original, the duplicate copy, and, upon request, any additional copy received.

(c) If the Office of the Secretary refuses to file a request, the Office shall return it to the person tendering the document for filing within five business days after the date on which the document is received by the Office for filing, together with a brief written explanation of the reason for refusal.

(d) Any document accepted by the Office of the Secretary shall be effective at the time of receipt unless a delayed effective date and/or time not more than 90 days after receipt by the Office of the Secretary is specified in the document.

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(e) Fees. The Office of the Secretary shall impose a reasonable filing fee for each document filed, initially not to exceed the sum of $100, and an annual renewal fee initially not to exceed the sum of $25 during the life of the LLC, subject to any uniform schedule of fees as may hereafter be adopted by the Office from time to time.

§ 812. Certificate of Status. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Any person may obtain from the Office of the Secretary, upon request, a certificate of status for either a Domestic or a foreign LLC.

§ 813. Execution by Judicial Act. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Any person who is adversely affected by the failure or refusal of any person to execute and file any articles or other document required to be filed under this Code may petition the Tribal Court to direct the execution and filing of the articles or other document. Nothing in this Code, however, serves to waive any aspect of the Tribe's sovereign immunity, and any waiver thereof must be provided explicitly in the LLC's Articles of Organization and/or operating agreement.

§ 814. Interstate Application. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

An LLC may conduct its business, carry on its operations and have and exercise the powers granted by this Code, in any sovereign native nation, any state, territory, district or possession of the United States, or in any foreign jurisdiction.

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PART 2
Operating Agreement And Dealing With LLC

§ 815. Articles of Organization. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) One or more persons may organize a limited liability company by signing and delivering the Articles of Organization to the Office of the Secretary for filing. The organizer(s) need not be an owner of the LLC at the time of organization or thereafter.

(b) A limited liability company shall have one or more owners.

(c) The Articles of Organization shall contain all of and only the following information:

(1) A statement that the LLC is organized under this Code.

(2) A name for the LLC that satisfies the provisions of this Code.

(3) The street address of the registered office and the name of the registered agent at that office. For all LLCs formed pursuant to this Code and for all foreign LLCs operating within Tribal Lands, such office and agent shall be located within the exterior boundaries of Tribal Lands.

(4) If management of the LLC is vested in one or more managers, a statement to that effect.

(5) The name and address of each person organizing the LLC.

(6) Whether the LLC is Tribally-owned.

(7) If Tribally-owned, whether the LLC is to enjoy Tribal sovereign immunity and the scope of any waiver of that immunity.

(d) The Office of the Secretary shall assign each Article of Organization an identification number.

(e) Amendment. An LLC may amend its Articles of Organization at any time by delivering an amendment, with filing fee, for filing to the Office of the Secretary.

(f) Effect of delivery or filing.

(1) An LLC is formed when the Articles of Organization become effective under Section 811(d).

(2) The Office of the Secretary's filing of the Articles of Organization is conclusive proof that the LLC is organized and formed under this Code.

§ 816. Agency Power of Owners and Managers. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as provided in Subsection (b) below:

(1) Each owner is an agent of the LLC, but not of any of the other owners, for the purpose of its business.

(2) The act of any owner, including the execution in the name of the LLC of any instrument for apparently carrying on in the ordinary course of business the business of the LLC, binds the LLC in the particular matter, unless the person with whom the owner is dealing has knowledge that the owner has no authority to act in this matter.

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(3) If the Tribe is an owner, the Tribe's authority shall be exercised pursuant to Section 882.

(b) If management of the LLC is vested in one or more managers:

(1) No owner, solely by being an owner, is an agent of the LLC or of the other owners.

(2) Each manager is an agent of the LLC, but not for the other owners, for the purpose of its business. The act of any manager, including the execution in the name of the LLC of any instrument for apparently carrying on the ordinary course of business of the LLC, binds the LLC unless the manager has, in fact, no authority to act for the LLC in the particular matter, and the person with whom the manager is dealing has knowledge that the manager has no authority to act in the matter.

(c) No act of an owner or, if management of the LLC is vested in one or more managers, of a manager that is not apparently authorized for the carrying on in the ordinary course of business the business of the LLC, shall bind the LLC unless in fact authorized at the time of the transaction or at any other time.

§ 817. Admissions of Owners and Managers. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as provided in Section 817(b)(2), an admission or representation made by any owner concerning the business of an LLC within the scope of the owner's actual authority may be used as evidence against the LLC in any legal proceeding.

(b) If management of the LLC is vested in one or more managers:

(1) An admission or representation made by a manager concerning the business of an LLC within the scope of the manager's authority may be used as evidence against the LLC in any legal proceeding.

(2) The admission or representation of any owner, acting solely in the owner's capacity as an owner, is not evidence against the LLC in any legal proceeding.

§ 818. Knowledge of or Notice to Owner or Manager. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as provided in Section 818(b)(2), notice to any owner of any matter relating to the business of an LLC, and the knowledge of an owner acting in the particular matter, acquired while an owner or known by the person at the time of becoming an owner, and the knowledge of any owner who reasonably could and should have communicated it to the acting owner, operate as notice to or knowledge of the LLC.

(b) If management of the LLC is vested in one or more managers:

(1) Notice to any manager of any matter relating to the business of the LLC, and the knowledge of the manager acting in the particular matter acquired while a manager or known by the person at the time of becoming a manager and the knowledge of any other manager who reasonably could and should have communicated it to the acting manager, operate as notice to or knowledge of the LLC.

(2) Notice to or knowledge of any owner while the owner is acting solely in the capacity of an owner is not notice to or knowledge of the LLC.

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§ 819. Liability of Owners to Third Parties. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The debts, obligations, and liabilities of an LLC, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the LLC. Except as otherwise specifically provided in this Code, an owner or manager of an LLC is not personally liable for any debt, obligation, or liability of an LLC, as defined in the operating agreement.

§ 820. Parties to Action. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) An owner of an LLC is not a proper party to a proceeding by or against an LLC solely by reason of being an owner of the LLC, except if any of the following exist:

(1) The object of the proceeding is to enforce an owner's right against or liability to the LLC.

(2) The action is brought by an owner under Section 821.

§ 821. Authority to Sue. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement, an action on behalf of an LLC may be brought in the name of the LLC by:

(1) One or more owners of the LLC, if authorized by a majority in interest of owners, excluding the vote of any owner who has an interest in the outcome of the action that is adverse to the interest of the LLC.

(2) One or more managers of an LLC if the management of the LLC is vested in one or more managers, or if the managers are authorized to sue by a majority in interest of owners.

(b) Nothing contained herein shall be construed as authorizing actions of any kind whatsoever against the Tribe as owner unless otherwise provided in the operating agreement.

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PART 3
Owners And Managers

§ 822. Management. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless the Articles of Organization vest management in one or more managers, management of the LLC shall be vested in the owners, subject to any provision in the operating agreement or this Code restricting or enlarging the management rights and duties of any owner or group of owners.

(b) In an owner-managed liability company, the following rules shall apply, subject to the provisions of the operating agreement or this Code:

(1) A difference arising among owners as to a matter in the ordinary course of the activities of the LLC may be decided by a majority of the owners.

(2) An act outside the ordinary course of activities of a limited liability company may be undertaken only with the consent of all the owners.

(c) If the Articles of Organization vest management in one or more managers, management of the business or affairs of the LLC shall be invested in the manager or managers, subject to any provisions in the operating agreement or this Code restricting or enlarging the management rights and duties of any manager or group of managers. Unless otherwise provided in the operating agreement, the manager, or managers:

(1) Shall be designated, appointed, elected, removed, or replaced by a vote of a majority in interest of the owners.

(2) Need not be owners of the LLC nor individuals.

(3) Unless earlier removed or earlier resigned, shall hold office until a successor is elected and qualified.

§ 823. Duties. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement:

(1) No owner or manager shall act or fail to act in a manner that constitutes any of the following:

(A) A willful failure to deal fairly with the LLC or its owners in connection with a matter in which the owner or manager has a material conflict of interest.

(B) A violation of criminal law involving moral turpitude.

(C) A transaction from which the owner or manager derived an improper personal profit.

(D) Willful misconduct.

(2) Every owner and manager shall account to the LLC and hold as trustee for it any improper personal profit derived by that owner or manager without the consent of a majority of the disinterested owners or managers, or other persons participating in the management of the LLC, from any of the following:

(A) A transaction connected with the organization, conduct, or winding up of the LLC.

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(B) A use by an owner or manager of the property of an LLC, including confidential or proprietary information or other matters entrusted to the person as a result of the person's status as owner or manager.

(b) An LLC's operating agreement may impose duties on its owners and managers that are in addition to, but not in abrogation of, those provided in Subsection (a) above.

§ 824. Limitation of Liability and Indemnification. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) In this section, "expenses" mean expenses of defending a lawsuit, including attorney's fees, and any civil judgment or penalty, or settlement payment in lieu thereof, paid in connection with a lawsuit against an owner or manager in such capacity.

(b) An LLC shall indemnify or allow expenses to each owner and each manager for all reasonable expenses incurred with respect to a proceeding if that owner or manager was a party to the proceeding in the capacity of an owner or manager.

(c) The operating agreement may alter or provide additional rights to indemnification or allowance of expenses to owners and managers.

(d) Notwithstanding Subsections (b) and (c) above, an LLC may not indemnify an owner or manager unless it is determined that the owner or manager did not breach or fail to perform a duty to the LLC as provided in Section 823.

(e) Unless otherwise provided in the operating agreement:

(1) An owner or manager shall be conclusively presumed not to have breached or failed to perform a duty to the LLC to the extent that the owner or manager has been successful on the merits or otherwise in the defense of the proceeding.

(2) In situations not described in Paragraph (1), above, the determination of whether an owner or manager has breached or failed to perform a duty to the LLC shall be made by the vote of a majority in interest of the owners, excluding any owner who is a party to the same or related proceeding unless all owners are parties.

§ 825. Voting. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement or this section, and subject to Subsection (b) below, an affirmative vote, approval, or consent as follows shall be required to decide any matter connected with the business of an LLC:

(1) If management of an LLC is reserved to the owners, an affirmative vote, approval, or consent by a majority in interest of owners.

(2) If the management of an LLC is vested in one or more managers, the affirmative vote, consent, or approval of more than 50% of the managers.

(b) Unless otherwise provided in the operating agreement or this Code, the affirmative vote, approval, or consent of all owners shall be required to do any of the following:

(1) Amend the Articles of Organization.

(2) Issue an interest in an LLC to any person.

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(3) Adopt, amend, or revoke the operating agreement.

(4) Allow an LLC to accept any additional contribution from an owner.

(5) Allow a partial redemption of an interest in an LLC under Section 834.

(6) Value contributions of owners under Section 829.

(7) Authorize a manager, owner, or other person to do any act on behalf of the LLC that contravenes the operating agreement.

(c) Unless otherwise provided in the operating agreement, if any owner is precluded from voting with respect to a given matter, the value of the contribution represented by the interest in the LLC with respect to which the owner would otherwise have been entitled to vote shall be excluded from the total contributions made to the LLC for purposes of determining the 50% threshold under Section 805(i) for that matter.

(d) Unless otherwise provided in operating agreement or this section, if all or part of an interest in the LLC is assigned under Section 843, the assigning owner shall be considered the owner of the assigned interest for purposes of determining the 50% threshold under Section 805(i) until the assignee of the interest in the LLC becomes an owner under Section 845.

§ 826. Records and Information. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) An LLC shall keep at its principal place of business all of the following:

(1) A list, in alphabetical order, of each past and present owner and, if applicable, manager.

(2) A copy of the Articles of Organization and all amendments to the articles, together with executed copies of any powers of attorney under which any articles were executed.

(3) A copy of the operating agreement and all amendments thereto.

(4) A record of all matters referred to in this Code as maintained in such records which are not otherwise specified in the operating agreement.

(b) Upon reasonable request, an owner may, at the owner's own expense, inspect and copy during ordinary business hours any LLC record unless otherwise provided in the operating agreement.

(c) Owners or, if the management of the LLC is vested in one or more managers, managers shall provide true and full information of all things affecting the owners to any owner or to the legal representative of any owner upon reasonable request of the owner or the legal representative.

(d) Failure of an LLC to keep or maintain any of the records of information required under this section shall not be grounds for imposing liability on any person for the debts and obligations of the LLC.

§ 827. Admission of Owners. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) In connection with the formation of an LLC, a person acquiring an LLC interest is admitted as an owner upon formation unless the operating agreement otherwise provides.

(b) After the formation of an LLC, a person acquiring an LLC interest is admitted as an owner of the

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LLC as specified in the operating agreement or, if not so specified, by consent of all the other owners, or, if the person is an assignee of another person's LLC interest, only pursuant to Section 842.

§ 828. Dissociation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A person ceases to be an owner of an LLC upon the simultaneous occurrence of and at the same time of any of the following events:

(1) The owner withdraws by voluntary act.

(2) The owner is removed as an owner in accordance with the operating agreement or this Code.

(3) Unless otherwise provided in the operating agreement or by the written consent of all owners at the time of the event, the owner does any of the following:

(A) Makes an assignment for the benefit of the creditors.

(B) Files a petition in bankruptcy.

(C) Becomes the subject of an order for relief under the federal bankruptcy law or state or Tribal insolvency laws.

(D) Fails to gain dismissal of any federal bankruptcy or state or Tribal insolvency proceeding within 120 days of commencement of an involuntary proceeding.

(4) Unless provided in the operating agreement or by the written consent of all owners, if the owner is an individual, either of the following occurs:

(A) The owner's death.

(B) The entry of an order by a court of competent jurisdiction adjudicating the owner incompetent to manage the owner's person or estate.

(5) Unless otherwise provided in the operating agreement or by written agreement or by the written consent of all owners at the time, if the owner is a trust, corporation, partnership, or limited liability company upon liquidation, dissolution, or termination.

(b) The owners may provide in the operating agreement for other events the occurrence of which result in a person ceasing to be an owner of the LLC.

(c) Unless the operating agreement provides that an owner does not have the power to withdraw by voluntary act from an LLC, the owner may do so at any time by giving written notice to the other owners or as provided in the operating agreement. If the owner has the power to withdraw but the withdrawal is a breach of the operating agreement, the LLC may offset the damages against the amount otherwise distributable to the owner, in addition to pursuing any remedies provided for in the operating agreement or otherwise available under applicable law.

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PART 4
Finance

§ 829. Contributions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) An owner's contributions to an LLC may consist of cash, property, or services rendered, or promissory notes or other written obligations to provide cash or property or to perform services.

(b) The value of an owner's contribution shall be determined in the manner provided in the operating agreement. If the operating agreement does not fix a value to a contribution, the value of a contribution shall be approved by a majority in interest of the owners, shall be properly reflected in the records and information kept by the LLC under Section 826(a). The value of contributions so determined shall be binding and conclusive on the LLC and its owners.

§ 830. Liability for Contribution. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) An obligation of an owner to provide cash or property or to perform services as a contribution to an LLC is not enforceable unless specified in a writing signed by the owner.

(b) Unless otherwise provided in the operating agreement, an owner is obligated to an LLC to perform any enforceable promise to provide cash or property or to perform services, even if the owner is unable to perform because of death, disability, or any other reason. If an owner does not provide cash, property, or services as promised, the owner is obligated at the option of the LLC to provide cash equal to that portion of the value of the stated contribution that has not been fulfilled.

(c) Unless otherwise provided in the operating agreement, an owner's obligation to provide cash or property or perform services as a contribution to the LLC may be compromised only by the written consent of all of the owners.

§ 831. Allocation of Profits and Losses. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The profits and losses of an LLC shall be allocated among the owners in the manner provided in the operating agreement. If the owners do not enter into an operating agreement or the operating agreement does not provide otherwise, profits and losses shall be allocated on the basis of value of the contributions made by each owner.

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PART 5
Non-Liquidating Distributions

§ 832. Interim Distributions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Except as provided in this Part 5, an owner is entitled to receive distributions from an LLC before the owner's dissociation from the LLC and before its dissolution and winding up to the extent and at the times or upon the events specified in the operating agreement, or to the extent and at the times determined by the owners or managers.

§ 833. Allocation of Distributions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Distributions of cash or other assets of an LLC shall be allocated among the owners as provided in operating agreement, or if the operating agreement does not so provide, on the basis of the value of the contributions made by each owner.

§ 834. Distribution Upon Partial Redemption. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Except as provided in this Part 5, upon the distribution in partial liquidation of an owner's interest, the redeeming owner is entitled to receive the amount to which the owner is entitled under the operating agreement and, if not otherwise provided in the operating agreement, the fair value of the redeemed interest based on the owner's right to share in distributions from the LLC.

§ 835. Distribution Upon Dissociation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Except as otherwise provided in this Part 5, upon an event of dissociation under Section 828 that does not cause dissolution of the LLC, a dissociating owner is entitled to receive any distribution to which owner is entitled under the operating agreement and, if not otherwise provided in the operating agreement, the fair market value of the owner's interest in the LLC based on the owner's rights to share in distributions from the LLC.

§ 836. Distribution in Kind. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement:

(1) An owner may not demand and receive any distribution from an LLC in any form other than cash.

(2) An owner may not be compelled to accept a distribution of any asset in kind except for a liquidating distribution made proportionately.

§ 837. Right to Distribution. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

At the time that an owner becomes entitled to receive a distribution from an LLC, the owner has the status of and is entitled to all remedies available to a creditor of the LLC with respect to the distribution; provided, however, that such right shall not in any way limit any other remedy available to such owner under any

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other provision of applicable law of the operating agreement.

§ 838. Limitations of Distributions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) An LLC may not declare or make a distribution to any of its owners, if after giving effect to the distribution, any of the following would occur:

(1) The LLC would be unable to pay its debts as they become due in the usual course of business.

(2) The fair market value of the LLCs total assets would be less than the sum of its total liabilities plus, unless the operating agreement provides otherwise, the amount that would be needed for the preferential rights upon dissolution of owners, if any.

(b) An LLC may base a determination that a distribution is not prohibited by Subsection (a), above, on any of the following:

(1) Financial statements and other financial data prepared on the basis of accounting practices and principles that are reasonable under the circumstances.

(2) A fair market valuation or other method that is reasonable under the circumstances.

(c) An LLCs indebtedness to an owner incurred by reason of a distribution made in accordance with this section is at parity with the LLCs indebtedness to its general unsecured creditors, except to the extent subordinated by written agreement. This section does not affect the validity or priority of a security interest in an LLC's property that is created to secure the indebtedness to the owner.

§ 839. Liability for Wrongful Distribution.

(a) Except as provided in Subsection (b) below, an owner (other than the Tribe or Tribal entity) or manager who votes or assents to a distribution in violation of Section 838 or of the operating agreement is personally liable to the LLC for the amount of the excess distribution, subject to contribution from all other managers or owners participating in such action.

(b) An action to recover under this section may be brought in the Tribal Court; however, a proceeding under this section is barred unless it is brought within two years after the date of the distribution.

(c) Nothing in this Code serves to waive any aspect of the Tribe's sovereign immunity, and any waiver thereof must be provided explicitly in the LLC's operating agreement.

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PART 6
Ownership And Transfer Of Property

§ 840. Ownership of LLC Property. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) All property originally transferred to or acquired by an LLC is property of the LLC and not the owners individually.

(b) Property acquired with LLC funds is presumed to be LLC property.

(c) Property may be acquired, held, and conveyed in the name of the LLC.

§ 841. Transfer of Property. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The property of an LLC may be transferred by an instrument of transfer executed by any owner in the name of the LLC, unless management is vested in managers, in which case the document of transfer shall be executed by a manager, subject to any limitation that may be imposed by the operating agreement.

§ 842. Nature of Interest. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

An LLC interest is personal property.

§ 843. Assignment of LLC Interest. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement:

(1) An LLC interest is assignable in whole or in part.

(2) An assignment of an LLC interest entitles the assignee to receive only the distributions and to share in the allocations of profits and losses to which the assignor would be entitled with respect to the assigned interest.

(3) An assignment of an LLC interest does not dissolve the LLC.

(4) Unless and until the assignee becomes an owner of the LLC under Section 845, the assignment of an LLC interest does not entitle the assignee to participate in the management or exercise rights of an owner.

(5) Unless and until the assignee of an LLC interest becomes an owner of the LLC under Section 845, the assignor continues to be an owner.

(6) The assignor of an LLC interest is not released from any personal liability arising under this Code as an owner of the LLC solely as a result of the assignment.

(b) Unless otherwise provided in the operating agreement, the granting of a security interest, lien, or other encumbrance in or against any or all of an owner's LLC interest is not assignable and shall not cause the owner to cease to have the power to exercise any rights or powers of an owner.

§ 844. Rights of Judgment Creditor. [History: Tribal Act #11-29.2313, enacted by Tribal Council

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February 15, 2012.]

Upon application to a court of competent jurisdiction, including a court other than the Tribal Court having valid jurisdiction over an owner, by any judgment creditor of the owner, the court may charge the LLC interest of any owner (other than the Tribe) with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of an assignee of the owner's LLC interest in distributions made by the LLC to owners and other assigned interest holders in the usual course of business. This section does not deprive any owner of the benefit of any exemption laws applicable to the LLC interest. In no event shall the Tribe's interest be attachable in abrogation of its sovereign immunity.

§ 845. Right of Assignee to Become an Owner. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement, an assignee of an LLC interest may become an owner only if the other owners unanimously consent.

(b) An assignee of an LLC interest who becomes an owner has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of the assignor under the operating agreement and this Code.

(c) Unless otherwise provided in the operating agreement, an assignor of an LLC interest is not released from any liability to the LLC without the written consent of all the owners, whether or not the assignee becomes an owner.

§ 846. Powers of Legal Representative. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

If an owner who is an individual dies or a court of competent jurisdiction adjudges the owner to be incompetent to manage his or her person or property, the owner's personal representative, administrator, guardian, conservator, trustee, or other legal representative shall have all the rights of an assignee of the owner's interest. If an owner is a corporation, trust, partnership, limited liability company, or other entity and is dissolved or terminated, the powers of that owner may be exercised by its legal representative or successor.

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PART 7
Dissolution

§ 847. Dissolution. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A limited liability company is dissolved and its affairs shall be wound up upon the happening of the first of the following:

(1) The occurrence of events specified in the operating agreement.

(2) The written consent of all owners.

(3) An event of dissociation of an owner, unless otherwise provided in the operating agreement or continuation is consented to by all remaining owners.

(4) Entry of a decree of judicial dissolution under Section 848.

§ 848. Judicial Dissolution. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) In a proceeding by or for an owner, the Tribal Court or court of competent jurisdiction may order dissolution of an LLC if any of the following is established:

(1) That it is not reasonably practicable to carry on the business of the LLC.

(2) That the LLC is not acting in conformity with its operating agreement.

(3) That one or more managers are acting or will act in a manner that is illegal, oppressive, or fraudulent.

(4) That one or more owners in control of the LLC are acting or will act in a manner that is illegal, oppressive, or fraudulent.

(5) That LLC assets are being misapplied or wasted.

(b) If the Tribe is an owner of the LLC, any action under this section must be brought in the Tribal Court, unless explicitly otherwise provided in the operating agreement. Nothing in this section may be construed as a waiver of the Tribe's sovereign immunity from suit, and any waiver thereof must be provided explicitly in the LLC's operating agreement.

§ 849. Winding Up. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A dissolved LLC continues its legal existence but may not carry on any business except that which is appropriate to wind up and liquidate its business.

(b) Unless otherwise provided in its operating agreement:

(1) The business of the LLC may be wound up by any of the following:

(A) The owners or managers who have authority to manage the LLC before dissolution.

(B) In a judicial dissolution, the person(s) designated by the Tribal Court or court of competent jurisdiction.

(2) The persons winding up the business of the LLC may do all of the following in the name of and

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on behalf of the LLC:

(A) Collect its assets.

(B) Prosecute and defend suits.

(C) Take any action necessary to settle and close the business of the LLC.

(D) Dispose of and transfer the property of the LLC.

(E) Discharge or make provision for discharging the liabilities of the LLC.

(F) Distribute to the owners any remaining assets of the LLC.

(c) Dissolution of an LLC does not do any of the following:

(1) Transfer title to the LLC's property.

(2) Prevent transfer of all or part of an owner's interest.

(3) Prevent commencement of a civil, criminal, administrative, or investigatory proceeding by or against the LLC.

(4) Abate or suspend a civil, criminal, administrative, or investigatory proceeding pending by or against the LLC at the time of dissolution.

(5) Terminate the authority of the registered agent of the LLC.

(6) Alter the limited liability of an owner.

§ 850. Distribution of Assets. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Upon the winding up of an LLC, the assets shall be distributed in the following order:

(1) To creditors, including to the extent permitted by law, owners, and former owners in satisfaction of liabilities of the LLC.

(2) Unless otherwise provided in the operating agreement, to owners and former owners in satisfaction of liabilities for distributions under Sections 832, 834 and 835.

(3) Unless otherwise provided in the operating agreement, to owners and former owners first for the return of their contributions in proportion to their respective values and, thereafter, in proportion to their respective rights to share in distributions from the LLC before dissolution.

§ 851. Articles of Dissolution. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) After the dissolution of an LLC under Section 847, the LLC may file articles of dissolution with the Office of the Secretary that include the following:

(1) The name of the LLC.

(2) The date of filing of its Articles of Organization.

(3) The statutory grounds under Section 847 for dissolution.

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(4) The delayed effective date of the articles of dissolution under Section 811(c), if applicable.

§ 852. Known Claims Against Dissolved LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A dissolved LLC may notify its known claimants in writing of the dissolution and specify a procedure for making claims.

(b) A claim against the LLC is barred if:

(1) A claimant who was given written notice under Subsection (a), above, does not deliver the claim, in writing, to the LLC by the deadline specified in the notice; or

(2) A claimant whose claim is rejected by the LLC does not commence a proceeding to enforce the claim within 90 days after receipt of the rejection notice.

§ 853. Unknown or Contingent Claims.

(a) A claim not barred under Section 852 may be enforced:

(1) Against the dissolved LLC, to the extent of its undistributed assets.

(2) If the dissolved LLC's assets have been distributed in liquidation, against an owner of the LLC, other than the Tribe, to the extent of the owner's proportionate share of the claim or of the assets of the LLC distributed to the owner in liquidation, whichever is less, but an owner's total liability for all claims under this section may not exceed the total value of assets at the time distributed to the owner.

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PART 8
Merger And Conversion

§ 854. Definitions. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) "Business entity" in this Part 8 means a domestic business entity and a foreign business entity.

(b) "Domestic business entity" means a corporation, incorporated under the laws of the Grand Traverse Band; a domestic LLC, organized under this Code; a Tribally-chartered entity of the Tribe, an unincorporated cooperative of the Tribe; a Section 17 corporation owned by the Tribe; or other Tribally-formed entity, that is party to the merger.

(c) "Foreign business entity" means a foreign limited liability company; a foreign limited partnership, or a foreign corporation.

(d) Unless the context requires otherwise, in this Part 8, "LLC" includes a domestic LLC and a foreign LLC.

(e) "Organizational documents" include Articles of Organization, operating agreements, Articles of Incorporation, bylaws, partnership agreements, agreements of trust and declarations of trust, and any other basic records that create a business entity's organization and determine its internal governance and relations among persons that own it, have an interest in it, or are owners of it.

§ 855. Merger. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in its operating agreement, one or more LLCs may merge with or into one or more other business entities if the action of merger is a process permitted under the applicable laws of the jurisdiction that governs each such other business entity and each such business entity approves the plan of merger in accordance with its organizational documents.

(b) Interests or shares in an LLC that is a party to a merger may be exchanged for or converted into cash, property, obligations, or interest in the surviving business entity.

§ 856. Approval of Merger. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in the operating agreement, a domestic LLC that is a party to a proposed merger shall approve the plan of merger by an affirmative vote by all of the owners.

(b) Unless otherwise provided in the operating agreement, the manager or managers of a domestic LLC may not approve a merger without also obtaining the approval of the LLC's owners under Subsection (a), above.

(c) Each business entity, other than a domestic LLC, that is a party to a proposed merger shall approve the merger in the manner and by the vote required by the laws applicable to the business entity and in accordance with their respective organizational documents.

(d) Each business organization that is a party to the merger shall have any rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity or in accordance with its organizational documents.

(e) Upon approval of a merger, the LLC shall notify its owners of the approval and of the effective date of the merger.

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(f) After a merger is authorized, and at any time before the Articles of Merger are filed with the Tribal Secretary, the planned merger may be abandoned, subject to any contractual rights, without further action on the part of the shareholders or other owners, in accordance with the procedures set forth in the plan of merger or, if none is set forth, in the manner determined by the governing body of any business entity that is a party to the merger.

§ 857. Plan of Merger. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The plan of merger shall include all of the following:

(1) The name, form of business entity, and identity of the jurisdiction governing each business entity that is a party to the merger and the name, form of business entity, and identity of the jurisdiction of the surviving business entity with, or into, which each other business entity proposes to merge.

(2) The terms and conditions of the proposed merger.

(3) The manner and basis of converting the interests in each business entity that is a party to the merger into shares, interests, obligations, or other securities of the surviving business entity or into cash or other property in whole or in part.

(4) Amendments to the Articles of Organization or other similar governing document of the surviving business entity.

(5) Other necessary or desirable provisions relating to the proposed merger.

§ 858. Articles of Merger. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The surviving business entity shall deliver to the Office of the Tribal Council Secretary Articles of Merger, executed by each party to the plan of merger, that include all of the following:

(1) The plan of merger.

(2) The name of the surviving or resulting LLC.

(3) The effective date and time of the merger.

(4) A statement as to whether the surviving business entity is Tribally-owned.

(5) If Tribally-owned, a statement as to whether the surviving business entity enjoys the Tribe's sovereign immunity.

(6) A statement that the plan of merger was approved by each domestic LLC that is a party to the merger in accordance with Section 856.

(b) A merger takes effect upon the effective date of the Articles of Merger.

§ 859. Effects of Merger. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A merger has the following effects:

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(1) The business organization must become a single entity, which shall be the entity designated in the plan of merger as the surviving LLC.

(2) Each business organization, except the surviving LLC, ceases to exist.

(3) The surviving LLC possesses all of the rights, privileges, immunities, and powers of each merged business organization and is subject to all of the restrictions, disabilities, and duties of each merged business organization.

(4) All property and all debts, including contributions, and each interest belonging to or owed to each of the business organizations are vested in the surviving LLC without further act.

(5) Title to all real estate and any interest in real estate, vested in any business organization, does not revert, and is not in any way impaired because of the merger.

(6) The surviving LLC has all the liabilities and obligations of each of the business organizations and any claim existing or action or proceedings pending by or against any merged business organization may be prosecuted as if the merger had not taken place, or the surviving LLC may be substituted in the action.

(7) The rights of creditors and any liens on the property of any business organization survive the merger.

(8) The interests in a business organization that are to be converted or exchanged into interest, cash, obligations, or other property under the terms of the plan of merger are converted and the former interest holders are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

(9) The Articles of Organization of the surviving LLC is amended to the extent provided in the Articles of Merger.

§ 860. Right to Object. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Unless otherwise provided in the operating agreement, upon receipt of the notice required by Section 856(e), an owner who did not vote in favor of the merger may, within 20 days after the date of the notice, voluntarily dissociate from the LLC under Section 828(c) and receive fair value for the owner's LLC interest under Section 835.

§ 861. Conversion. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless otherwise provided in its organizational documents, a domestic LLC may convert to another form of business entity:

(1) If it satisfies the requirements under this chapter relating to conversions; and

(2) If the conversion is permitted under the applicable law of the jurisdiction that governs the organization of the business entity into which the domestic LLC is converting.

(b) Unless otherwise provided in its organizational documents, a business entity other than a domestic LLC may convert into a domestic LLC:

(1) If it satisfies the requirements under this chapter relating to conversions; and

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(2) If the conversion is permitted under the applicable law of the jurisdiction that governs the business entity.

(c) The filing requirements of Section 811 apply to conversions under this chapter.

(d) Notwithstanding its prior approval, a plan of conversion under this chapter may be amended before the conversion takes effect if the amendment is approved by the members of the converting domestic LLC or business entity in the same manner as was required for the approval of the original plan of conversion.

§ 862. Conversion of Domestic LLC into Another Business Entity. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

A domestic LLC may convert into another business entity if all of the requirements of Section 863 and Section 864 are satisfied.

§ 863. Plan of Conversion for Domestic LLC into Another Business Entity. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Unless Subsection (c) applies, the domestic LLC proposing to convert shall adopt a plan of conversion that includes all of the following:

(1) The name of the domestic LLC, the name of the business entity into which the domestic LLC is converting, the type of business entity into which the domestic LLC is converting, identification of the statute that will govern the internal affairs of the surviving business entity, the street address of the surviving business entity, the street address of the domestic LLC if different from the street address of the surviving business entity, and the principal place of business of the surviving business entity.

(2) The terms and conditions of the proposed conversion, including the manner and basis of converting the membership interest of the domestic LLC into ownership interests or obligations of the surviving business entity, into cash, into other consideration that may include ownership interests or obligations of an entity that is not a party to the conversion, or into a combination of cash and other consideration.

(3) The terms and conditions of the organizational documents that are to govern the surviving business entity.

(4) Any other provisions with respect to the proposed conversion that the domestic LLC considers as necessary or desirable.

(b) A vote of the members of the domestic LLC is required to adopt a plan of conversion under Subsection (a). A unanimous vote of the members entitled to vote is required to approve a plan of conversion unless its organizational documents provide otherwise.

(c) If the domestic LLC has not commenced business; has not issued any membership interests; has no debts or other liabilities; and has not received any payments, or has returned any payments it has received after deducting any amount disbursed for payment of expenses, for subscriptions for its membership interests, Subsections (a) and (b) do not apply and the owners of the domestic LLC, may approve of the conversion of the domestic LLC into another business entity by majority vote. To effect the conversion, a majority of the owners must execute and file a certificate of conversion under Section 864.

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§ 864. Filing of Certificate of Conversion for Domestic LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) If the plan of conversion is approved under Section 863(b), the domestic LLC shall file any formation documents required to be filed under the laws governing the internal affairs of the surviving business entity, in the manner prescribed by those laws, and shall file a certificate of conversion with the Office of the Secretary. The certificate of conversion shall include all of the following:

(1) Unless Section 863(c) applies, a copy of the plan of conversion.

(2) The name of the domestic LLC that is converting into another business entity.

(3) The type of business entity the domestic LLC is converting into and the jurisdiction under which the surviving business entity shall be governed.

(4) A statement that the members of the domestic LLC have adopted the plan of conversion under Section 863(b), or that the owners of the domestic LLC have approved of the conversion under Section 863(c), as applicable.

(5) A statement that the surviving business entity will furnish a copy of the plan of conversion, on request and without cost, to any owner of the domestic LLC.

(6) The registered agent and registered office of the domestic LLC before and after conversion.

(7) A statement whether the domestic LLC is Tribally-owned.

§ 865. Effect of Conversion of Domestic LLC into Another Business Entity. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) When a conversion under this section takes effect, all of the following apply:

(1) The domestic LLC converts into the surviving business entity, and the organizational documents of the domestic LLC are canceled.

(2) Except as otherwise provided in this Code, the surviving business entity is organized under and subject to the organizational laws of the jurisdiction of the surviving business entity as stated in the Certificate of Conversion.

(3) The surviving business entity has all of the liabilities of the domestic LLC. The conversion of the domestic LLC into a business entity under this section shall not be considered to affect any obligations or liabilities of the domestic LLC incurred before the conversion or the personal liability of any person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the domestic LLC with respect to matters arising before the conversion.

(4) The title to all real estate and other property and rights owned by the domestic LLC remain vested in the surviving business entity without reversion or impairment.

(5) The surviving business entity is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the domestic LLC was originally organized.

(6) The membership interests of the domestic LLC that were to be converted into ownership interest or obligations of the surviving business entity or into cash or other property are converted.

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(7) Unless otherwise provided in the plan of conversion, the domestic LLC is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute dissolution of the domestic LLC.

(8) The organizational documents of the surviving business entity are as provided in the plan of conversion.

(9) All other provisions of the plan of conversion apply.

§ 866. Conversion of Business Entity into Domestic LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

A business entity may convert into a domestic LLC if all of the requirements of Section 867 and 868 are satisfied.

§ 867. Plan of Conversion Business Entity into Domestic LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The business entity proposing to convert into a domestic LLC adopts a plan of conversion that includes all of the following:

(1) The name of the business entity, the type of business entity that is converting, identification of the statute that governs the internal affairs of the business entity, the name of the surviving domestic LLC into which the business entity is converting, the street address of the surviving domestic LLC company, the street address of the business entity if different from the street address of the surviving domestic LLC, and the principal place of business of the surviving domestic LLC.

(2) The terms and conditions of the proposed conversion, including the manner and basis of converting the ownership interests of the business entity into membership interests of the surviving domestic LLC, into cash, into other consideration that may include ownership interests or obligations of an entity that is not a party to the conversion, or into a combination of cash and other consideration.

(3) The terms and conditions of the organizational documents that are to govern the surviving domestic LLC.

(4) Any other provisions with respect to the proposed conversion that the business entity considers necessary or desirable.

(b) If a plan of conversion is adopted by the business entity under Subsection (a), the plan of conversion is submitted for approval in the manner required by the law governing the internal affairs of that business entity.

(c) If the plan of conversion is approved under Subsections (a) and (b), the business entity shall file a Certificate of Conversion with the Office of the Tribal Secretary. The Certificate of Conversion shall include all of the following:

(1) A copy of the plan of conversion.

(2) A statement that the business entity has obtained approval of the plan of conversion under Subsection (b).

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(3) A statement that the surviving domestic LLC will furnish a copy of the plan of conversion, on request and without cost, to any owner of the business entity.

(4) The registered agent and registered office, record agent and record office, or other similar agent and office of the surviving domestic LLC before and after conversion.

(5) The type of business entity and the date and location of jurisdiction where the business entity was formed prior to converting into a domestic LLC.

(6) A statement whether the surviving domestic LLC is Tribally-owned.

(7) Submission of Articles of Organization for the surviving domestic LLC that meet all of the requirements of this Code.

§ 868. Effect of Conversion of Business Entity into Domestic LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) When a conversion under this Part 8 takes effect, all of the following apply:

(1) The business entity converts into the surviving domestic LLC. Except as otherwise provided in this section, the surviving domestic LLC is organized under and subject to this Code.

(2) The surviving domestic LLC has all of the liabilities of the business entity. The conversion of the business entity into a domestic LLC under this section shall not be considered to affect any obligations or liabilities of the business entity incurred before the conversion or the personal liability of any person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the business entity with respect to matters arising before conversion.

(3) The title to all real estate and other property and rights owned by the business entity remains vested in the surviving domestic LLC without reversion or impairment.

(4) A proceeding pending against the business entity may be continued as if the conversion had not occurred, or the surviving domestic LLC may be substituted in the pending proceeding for the business entity.

(5) The surviving domestic LLC is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the business entity was originally organized.

(6) The ownership interests of the business entity that were to be converted into membership interests or obligations of the surviving domestic LLC or into cash or other property are converted.

(7) Unless otherwise provided in a plan of conversion, the business entity is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute a dissolution of the business entity.

(8) The organizational documents of the domestic LLC are as provided in the plan of conversion.

(9) All other provisions of the plan of conversion apply.

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PART 9
Limited Liability Companies Wholly-Owned By The Tribe

SUBPART 1
(Reserved)

SUBPART 1A
General Provisions for Tribally-Owned LLCs

§ 869. Tribally-Owned Companies. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

There are hereby authorized to be created limited liability companies wholly-owned by the Tribe, with the Tribe as the sole owner. Tribally-owned limited liability companies shall be created by a duly adopted resolution of the Tribal Council. The organizer shall file in accordance with Section 811. When the organizer files the Articles of Organization and the operating agreement of a Tribally-owned LLC, a certified copy of the resolution authorizing the formation of the LLC and approving the articles shall be included. Tribally-owned LLCs shall be considered to be instrumentalities of the Tribe.

§ 870. Tribally-Owned Subsidiary Companies. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

There are hereby authorized to be created by resolution of the Board of Directors of a Tribally-owned limited liability company or of a Tribal corporation, or of a wholly-owned subsidiary of such a Tribally-owned LLC or Tribal corporation, subsidiary LLCs to be wholly-owned by the parent Tribally-owned LLC or parent Tribal corporation, which shall be instrumentalities of the Tribe. The organizer of such a Tribally-owned subsidiary LLC shall file in accordance with Section 811. When the organizer files the Articles of Organization and the operating agreement of the Tribally-owned subsidiary LLC, a certified copy of a resolution of the Board of Directors of the parent Tribally-owned LLC or parent Tribal corporation authorizing the formation of the subsidiary LLC and approving the articles shall be included.

§ 871. Privileges and Immunities. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The limited liability companies established under Sections 869 and 870 shall be considered to be instrumentalities of the Tribe, and their officers and employees considered officers and employees of the Tribe, created for the purpose of carrying out authorities and responsibilities of the Tribal Council for economic development of the Tribe and the advancement of its Tribal members. Such LLCs, their directors, officers, managers and employees shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to immunities from suit in federal, state and Tribal courts and from federal, state, and local taxation or regulation.

§ 872. Ownership. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) No ownership interest in any LLC in which the Tribe is an owner may be alienated unless approved by a duly adopted resolution of the Tribal Council. Further, no ownership interest in any Tribally-owned subsidiary LLC may be alienated unless approved by a duly adopted resolution of the Board of Directors of the parent Tribally-owned LLC or parent Tribal corporation.

(b) All interests in any Tribally-owned LLC shall be held by and for a Tribe, or in the case of a wholly-

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owned subsidiary LLC, by the parent Tribally-owned LLC or parent Tribal corporation. No individual member of the Tribe shall have any personal ownership interest in any LLC organized under this Part 9, whether by virtue of such person's status as a member of a Tribe, as an officer of a Tribe's government, or otherwise.

§ 873. Project Companies with Non-Tribal Members. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Any LLC created pursuant to this Part 9, including subsidiary LLCs, may form or own interests or shares in partnerships, corporations, or other limited liability companies with other governmental or non-governmental entities or persons under the laws of the Tribe or any other jurisdiction ("project companies"); provided, however, that the partial ownership interest in such project companies shall not diminish or affect the privileges and immunities of the Tribally-owned LLCs or Tribally-owned subsidiary LLCs created pursuant to this Part 9.

§ 874. Purpose of Tribally-Owned LLCs. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

All Tribally-owned LLCs, whether directly or indirectly owned, shall state in their operating agreement the purpose of the LLC that relates to the overall needs, priorities, goals, and objectives of the Tribe's government, including how the LLC will contribute to tribal economic policy and further the goals of self-determination and economic self-sufficiency.

§ 875. Waiver of Sovereign Immunity. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The limited liability companies established under Sections 869 and 870 may only waive the privileges and immunities granted under Section 871 in the following manner:

(1) The LLC may specifically grant limited waivers of its immunity from suit and consent to be sued in Tribal Court or another court of competent jurisdiction or consent to binding arbitration pursuant to the procedures and authorities set forth in the LLC's operating agreement; provided, however, that:

(A) Any such waiver or consent to suit granted pursuant to the LLC's operating agreement shall include written language in any contract or agreement explicitly limiting said waiver to the specific dollar amount of the agreement;

(B) Any contract or agreement with such waiver or consent to suit language shall be reviewed and approved by an attorney representing the Tribe or the Tribally-owned LLC prior to contract execution;

(C) Any such waiver or consent to suit granted pursuant to the LLC's operating agreement shall in no way extend to any action against the Tribe, nor shall it in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe;

(D) Any recovery against the LLC shall be limited to the assets of the LLC (or such portion of the LLC's assets as further limited by the waiver or consent) and the Tribe shall not be liable for the payment or performance of any of the obligations of the LLC, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the LLC; including assets of the Tribe leased, loaned, or assigned to the LLC for its use, without transfer of title; and

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(E) Any waiver of the LLC's immunities granted pursuant to the LLC's operating agreement shall be further limited or conditioned by the terms of such waiver.

(b) The sovereign immunity of the LLC shall not extend to actions against the LLC by the Tribe acting as owner, or, in the case of a subsidiary LLC created pursuant to this Part 9, by the parent LLC acting as owner, pursuant to Section 869.

(c) The LLC must follow the method mandated by Section 878.

(d) Notwithstanding Subsection (a)(1) above, the LLC may also specifically grant a limited waiver of its immunity from suit for participation in the Small Business Administration 8a program in the manner required by federal regulations governing the program.

SUBPART 2
Special Formation Requirements for Tribally-Owned LLCs

§ 876. (Reserved)

§ 877. (Reserved)

§ 878. Formation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Tribally-owned LLCs. The Chairperson or any other member of the Tribal Council who is not the Secretary of the Tribal Council shall be the organizer of any Tribally-owned limited liability company.

(b) Subsidiaries of Tribally-owned LLCs. A Board member of the parent Tribally-owned LLC or parent Tribal corporation shall be the organizer of any Tribally-owned subsidiary LLC. If practicable, such Board member shall also be a member of the Tribe. The C.E.O. of the parent Tribally-owned LLC or manager of a Tribally-owned subsidiary LLC shall be the organizer of any Tribally-owned second tier subsidiary LLC.

(c) Unless a delayed effective date is specified:

(1) The existence of a Tribally-owned LLC begins when the Articles of Organization have been approved by resolution of the Tribal Council in accordance with Section 869 and have been filed with the Office of the Secretary in accordance with Section 811.

(2) The existence of a subsidiary LLC owned by a Tribally-owned LLC or Tribal corporation begins when the Articles of Organization have been approved by a resolution of the Directors of the parent Tribally-owned LLC or Tribal corporation and have been filed with the Office of the Secretary in accordance with Section 811.

(3) The existence of a Tribally-owned second tier subsidiary LLC owned by a Tribally-owned subsidiary begins when the Articles of Organization have been approved by the C.E.O. or manager of the Tribally-owned subsidiary or C.E.O. of the parent Tribally-owned LLC and have been filed with the Office of the Secretary in accordance with Section 811.

(4) The Articles of Organization of any Tribally-owned LLC or subsidiary thereof, and any amendments thereto, shall be filed with the Office of the Secretary in accordance with Section 811, and shall state at a minimum the items set forth in Section 879 below.

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§ 879. Additional Requirements for the Articles of Organization. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) As set forth in Section 875, Tribally-owned limited liability companies established under Sections 869 and 870 may grant a limited waiver of sovereign immunity in order to promote economic development through commercial transactions for which such a waiver is necessary and beneficial to the Tribe. The method for granting a limited waiver of sovereign immunity through the above-mentioned entities is as follows:

(1) The sovereign immunity of a Tribally-owned LLC may be waived only by:

(A) A resolution adopted by the Board of Directors of the Tribally-owned LLC for the specific purpose of granting a waiver, or in the case of owner-managed Tribally-owned subsidiary LLC, by the owner's Board of Directors; and

(B) The language of the waiver must be explicit and state that said waiver be specifically limited to the dollar amount of the agreement; and

(C) The waiver must be contained in a written contract or commercial document to which the LLC is a party.

(2) Waivers of sovereign immunity by resolution of the Board of Directors may be granted only when necessary to secure a substantial advantage or benefit to the Tribally-owned LLC. Waivers of sovereign immunity by resolution may not be general but must be specific and limited as to duration, grantee, transaction, property, court having jurisdiction, applicable law, and shall be specifically limited to the dollar amount of the agreement.

SUBPART 3
Management of Tribally-Owned LLCs

§ 880. Management. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) All Tribally-owned LLCs formed pursuant to Section 869 of this Code shall be managed by a Board of Directors in the manner described in the company's operating agreement. The qualifications, number, terms and method for selecting and removing Directors of any Tribally-owned LLC shall be specified in the LLCs operating agreement, subject to requirements set forth in this Part 9.

(b) All Tribally-owned subsidiary LLCs formed pursuant to Section 870 of this Code, including Tribally-owned second tier subsidiary LLCs, may be owner-managed or manager-managed. If manager-managed, the company's operating agreement shall set forth the qualifications, number, terms, and method for selecting and removing such managers. If owner-managed, the LLC shall have one or more persons exercising the functions of Chief Executive Officer.

§ 881. Board of Directors. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Appointment of directors. The Tribal Council shall retain the power to appoint the Board of Directors for Tribally-owned LLCs wholly-owned by the Tribe. For all such LLCs, including subsidiary tribal corporations, that may have a Board of Directors, the Board of Directors shall be comprised of members of the Tribal Council, Tribal members, and/or individuals experienced in business and

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Tribal government. In addition to any requirements set forth in the company's operating agreement, Board Members of Tribally-owned LLCs shall meet the following requirements:

(1) Be at least 25 years old.

(2) Possess a Bachelor's Degree in a related field; or possess a high school diploma (or a general equivalency diploma) and at least five years of business, financial, legal, government contracting or industry experience; or be a currently elected Tribal Council member.

(3) Have no felony convictions.

(4) Submit to a background investigation which yields no results showing convictions involving tax evasion, tax fraud, embezzlement or moral turpitude.

(b) Removal of directors. A director of an LLC wholly-owned by the Tribe may be removed with or without cause by the Tribal Council; or as specified in the LLCs operating agreement.

(1) "Cause" shall mean any the following:

(A) Breach of a fiduciary duty.

(B) Conviction of a felony.

(C) Conviction of a misdemeanor that, in the determination of the Tribal Council, adversely affects the company or such Director's ability to perform his or her duties.

(D) Adjudication as incompetent by a court of competent jurisdiction.

(E) Misappropriation of corporate funds or other acts of dishonesty with respect to the company.

(F) Gross negligence, fraud, deceit or intentional misconduct that had a material adverse effect on the Company.

(2) Loans to directors. An LLC wholly-owned, directly or indirectly, by the Tribe may not lend money to or guarantee the personal obligation of a director, officer, or employee of the corporation under any circumstances.

SUBPART 4
Decisions and Voting for Tribally-Owned LLCs

§ 882. Voting. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The ownership interests in all Tribally-owned LLCs shall be voted in accordance with the Tribal Council's procedures for voting and passing Tribal resolutions.

(b) The ownership interests in a Tribally-owned subsidiary LLC, including Tribally-owned second tier subsidiary LLCs, shall be voted as provided in the company's operating agreement.

SUBPART 5
Distributions for Tribally-Owned LLCs

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§ 883. Distributions of Income. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Subject to the Tribe's ultimate ownership right to all income generated by its Tribally-owned LLCs, a Tribally-owned LLC shall distribute the net income of the LLC to the Tribe as set forth in a dividend plan adopted in accordance with the operating agreement and duly approved by the Tribal Council, except that a Tribally-owned LLC may retain reserves necessary to carry on the LLCs business in a reasonably prudent manner and as recommended by the Board of Directors, subject to further limitations set forth in Section 838 and in the operating agreement.

(b) Subject to the parent Tribally-owned LLC's or parent Tribal corporation's ultimate ownership right to all income generated by its subsidiary LLCs, a subsidiary LLC created pursuant to Section 870 shall distribute the net income of the LLC to the parent Tribally-owned LLC or parent Tribal corporation as set forth in a dividend plan adopted in accordance with the operating agreement and duly approved by its Board of Directors, except that a Tribally-owned LLC may retain reserves necessary to carry on the LLCs business in a reasonably prudent manner and as recommended by the Board of Directors, subject to further limitations set forth in Section 838 and in the operating agreement.

SUBPART 6
Additional Reports and Audits

§ 884. Audit. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

In addition to any owner inspection rights provided in the operating agreement of a Tribally-owned LLC, the Tribal Council may at any time, by process in the manner required to be provided in the operating agreement, require that any LLC wholly-owned by the Tribe, whether directly or indirectly, or an LLC in which the Tribe owns the majority interest, be audited by an independent auditor hired by the Tribe, who shall have the absolute right to require access to all of the LLC's records and documents necessary for such an audit.

§ 885. Financial, Business, and Planning Information. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) In addition to any reports to the owner required by the operating agreement, the Board of Directors of each Tribally-owned LLC, whether owned directly or indirectly, shall submit the following information to the Tribal Council:

(1) Copies of any periodic financial statements (including monthly or quarterly balance sheets, profit and loss statements, and cash flow statements) as may be prepared in the ordinary course of business, promptly after such statements are furnished to the LLC's Board of Directors;

(2) A full report of the business activities of the company within 120 days after the close of each fiscal year; and

(3) A proposed annual plan for the following year, including any proposed funding from the Tribe or anticipated distributions to the Tribe.

SUBPART 7
Actions Against Tribally-Owned LLCs

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§ 886. Court Actions by a Tribe Authorized. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The Tribe, as owner of any Tribally-owned limited liability company organized pursuant to this Code, or in the case of a subsidiary LLC created pursuant to this Part 9, the parent Tribally-owned LLC or Tribal corporation acting as owner, may bring a civil action against the LLC to:

(1) Enjoin temporarily or permanently any action of the LLC that is an ultra vires act outside the authority of the LLC and that is either:

(A) Unlawful; or

(B) Has or could cause material harm to the assets of the LLC or the Tribe if no immediate action is taken.

(C) Require the distribution of the LLC's surplus net income, to the extent permitted by Section 838.

(2) An action against an LLC pursuant to this section by the Tribe or by a parent LLC or corporation, acting as owner, shall not act as a waiver of the Tribe's, or the parent LLC's or parent corporation's, sovereign immunity from suit of any kind, including a countersuit by the Tribally-owned LLC, its Board of Directors or its officers.

(3) In accordance with Section 871, the sovereign immunity of the LLC shall not extend to actions against the LLC by a Tribe acting as owner, or, in the case of a subsidiary LLC created pursuant to this Part 9, by the parent LLC acting as owner.

(4) Nothing contained herein shall be construed as authorizing actions of any kind whatsoever against the Tribe.

§ 887. Tribal Approval Required. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The filing of any court action against a Tribally-owned LLC pursuant to this Part 9 must be authorized by the Tribe as owner in the same manner as required in Section 882 for voting on any item properly coming before the Tribe as owner. The request for consideration of the proposed court action may be made by any member of the Tribal Council.

§ 888. Relief Available. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) In any action brought under this Part 9, the Tribal Court may, based on clear and convincing evidence set forth in its findings of fact and conclusions of law:

(1) Issue a temporary restraining order, preliminary injunction, and permanent injunctive relief pursuant to the procedures and standards applicable in the Tribal Court, except that no bond need be posted for any preliminary injunctive relief; or

(2) Order that funds of the LLC be distributed to a Tribe to the extent permitted by the operating agreement and Section 838 of this Code.

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PART 10
Foreign Limited Liability Companies

§ 889. Governing Law. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) The laws of the jurisdiction under which the foreign limited liability company is organized shall govern its organization and internal affairs and the liability and authority of its managers and members, regardless of whether the foreign LLC obtained or should have obtained a certificate of registration under this Part 10. However, a foreign LLC that has filed a certificate of conversion under Part 8 to become a domestic LLC shall be subject to the requirements of this chapter governing domestic LLCs on the effective date of the conversion and shall not be subject to the requirements of this chapter governing foreign LLCs.

(b) A foreign LLC may not be denied a certificate of registration by reason of any difference between the laws of the other jurisdiction under which it is organized and the laws of the Tribe.

(c) A foreign LLC holding a valid certificate of registration under this Part 10 shall have no greater rights and privileges than a domestic LLC. Registration may not be considered to authorize a foreign LLC to exercise any powers or purposes that a domestic LLC is forbidden by law to exercise.

§ 890. Registration Required. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign limited liability company may not transact business on Tribal Lands until it obtains a certificate of registration from the Office of the Secretary.

(b) Activities that for the purposes of Subsection (a) do not constitute transacting business include, but are not limited to:

(1) Maintaining, defending, or settling any civil, criminal, administrative, or investigatory proceeding.

(2) Holding meetings of its owners or managers or carrying on other activities concerning its internal affairs.

(3) Maintaining financial institution accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of the foreign LLCs own securities or interests or maintaining trustees or depositories with respect to those securities or interests.

(5) Selling through independent contractors.

(6) Soliciting or obtaining orders, by mail or through employees or agents or otherwise, if the orders require acceptance outside Tribal Lands before they become contracts.

(7) Lending money or creating or acquiring indebtedness, mortgages, and security interests in property.

(8) Securing or collecting debts or enforcing mortgages and security interests in property security the debts.

(A) Owning, without more, property.

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(B) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.

(C) Transacting business in interstate commerce.

(c) A foreign LLC shall not be considered to be transacting business on Tribal Lands solely because of any of the following:

(1) The foreign LLC owns a controlling interest in a corporation that is transacting business on Tribal Lands.

(2) The foreign LLC is a limited partner of a limited partnership that is transacting business on Tribal Lands.

(3) The foreign LLC is an owner or manager of a limited liability company or a foreign LLC that is transacting business on Tribal Lands.

(4) The foreign limited liability partnership is a limited partner of a limited partnership that is transacting business on Tribal Lands.

(d) This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation on Tribal Lands or to regulation under any other law of the Tribe.

§ 891. Consequences of Transacting Business Without Registration. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC transacting business without a certificate of registration may not maintain a proceeding in Tribal Court until the foreign LLC obtains a certificate of registration.

(b) Neither the successor to a foreign LLC that transacted business on Tribal Lands without a certificate of registration nor the assignee of a cause of action arising out of that business may maintain a proceeding based on that cause of action in Tribal Court until the foreign LLC or its successor obtains a certificate of registration.

(c) The Tribal Court may stay a proceeding commenced by a foreign LLC, or its successor or assignee, until the Tribal Court determines if the foreign LLC or its successor requires a certificate of registration. If the Tribal Court determines that a certificate is required, the Tribal Court may further stay the proceedings until the foreign LLC or its successor obtains the certificate of registration.

(d) The failure of a foreign LLC to obtain a certificate of registration does not do any of the following:

(1) Impair the validity of any contract or act of the foreign LLC or its title to property on Tribal Lands.

(2) Affect the right of any other party to contract to maintain any action, suit or proceeding on a contract.

(3) Prevent the foreign LLC from defending any proceeding in Tribal Court.

(e) Civil penalty.

(1) A foreign LLC that transacts business on Tribal Lands without a certificate of registration is liable to the Tribe, for each year or any part of a year during which it transacted business on

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Tribal Lands without a certificate of registration, in an amount equal to the sum of the following:

(A) All fees that would have been imposed by this Part 10 upon the foreign LLC had it applied for and received a certificate of registration.

(B) 50% of the amount owed under Subsection (e)(1)(A) above or $5,000, whichever is less.

(2) The foreign LLC shall pay the amount owed under Subsection (e)(1) to the Office of the Secretary. The Secretary may not issue a certificate of registration to the foreign LLC until the amount owed is paid.

(f) An owner or manager of a foreign LLC is not liable for the debts and obligations of the LLC solely because the LLC transacted business on Tribal Lands without a certificate of registration.

§ 892. Application for Certificate of Registration. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC may apply for a certificate of registration to transact business on Tribal Lands by delivering an application to the Office of the Secretary for filing signed by a person with authority to do so under the laws of the state or other jurisdiction of its organization. The application shall include all of the following:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to transact business on Tribal Lands.

(2) The name of the state or other jurisdiction under whose laws it is organized.

(3) The date of its organization.

(4) The street address of its registered office on Tribal Lands and the name of its registered agent at that office.

(5) If management of the LLC is vested in one or more managers, a statement to that effect.

(6) The street address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or jurisdiction or, if no office is required, its principal office.

(7) A statement that the applicant is a foreign limited liability company.

(8) A statement that the foreign limited liability company is in good standing in the state or other jurisdiction under whose laws it is organized.

§ 893. Name. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

A certificate of registration may not be issued to a foreign LLC unless its name satisfies Section 806. If the name under which a foreign LLC is registered in the jurisdiction of its formation does not satisfy Section 806, the foreign LLC may obtain a certificate of registration to transact business on Tribal Lands under a fictitious name that is available and that satisfies Section 806.

§ 894. Amended Certificate of Registration. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC authorized to transact business on Tribal Lands shall obtain an amended certificate of

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registration from the Office of the Secretary if the foreign LLC changes any of the following:

(1) Its name or the fictitious name under which it has been issued a certificate of registration.

(2) The state or jurisdiction under whose laws it is organized or its date of organization.

(3) Whether management of the foreign LLC is vested in one or more managers.

(b) The requirements of Section 892 for obtaining an original certificate of registration apply to obtaining an amended certificate of registration.

§ 895. Registered Office and Registered Agent of Foreign LLC. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC authorized to transact business on Tribal Lands shall continuously maintain on Tribal Lands a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business on Tribal Lands, if any.

(b) A foreign LLC may change its registered office or registered agent, or both, by filing a written notice of change containing the name of its registered agent and the street address of its registered office, as changed, with the Office of the Secretary and paying the filing fee.

(c) The registered agent of a foreign LLC may resign as a registered agent by delivering to the Office of the Secretary for filing a written statement of registration and the appointment by the foreign LLC of another registered agent.

§ 896. Service of Foreign Limited Liability Company. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as otherwise provided in Subsection (b) and (c), the registered agent of a foreign LLC authorized to transact business on Tribal Lands is the foreign LLC's agent for service of process, notice, or demand required or permitted by law to be served on the foreign LLC.

(b) A foreign LLC authorized to transact business on Tribal Lands may be served in the manner provided in Subsection (d) if the foreign LLC has no registered agent or its registered agent cannot with reasonable diligence be served.

(c) A foreign LLC formerly authorized to transact business on Tribal Lands may be served in the manner provided in Subsection (d) in any civil, criminal, administrative or investigatory proceeding based on a cause of action arising while it was authorized to transact business on Tribal Lands, if the foreign LLC has withdrawn its registration under Section 897.

(d) With respect to a foreign LLC described in Subsection (b) or (c), the foreign LLC may be served by registered or certified mail, return receipt requested, addressed to the foreign LLC at its principal office as shown on the records of the Office of the Secretary. Service is perfected under this paragraph at the earliest of the following:

(1) The date on which the foreign LLC receives the mail.

(2) The date shown on the return receipt, if signed on behalf of the foreign LLC.

(3) Five days after the mail is deposited in the U.S. mail, if mailed postpaid and correctly addressed.

(e) This section does not limit or affect the right to serve any process, notice, or demand required or

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permitted by law to be served upon a foreign LLC in any other manner permitted by law.

§ 897. Withdrawal of Registration. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC authorized to transact business on Tribal Lands may not withdraw until it obtains a certificate of withdrawal from the Office of the Secretary.

(b) A foreign LLC authorized to transact business on Tribal Lands may apply for a certificate of withdrawal by delivering an application to the Office of the Secretary for filing signed by a person with authority to do so under the laws of the state or other jurisdiction of its organization. The application shall include all of the following:

(1) The name of the foreign LLC and the name of the state or jurisdiction under whose laws it is organized.

(2) A statement that the foreign LLC is not transacting business on Tribal Lands and that it surrenders its authority to transact business on Tribal Lands.

(3) A statement that the foreign LLC revokes the authority of its registered agent to accept service on its behalf and that it consents to services of process under Section 896(c) and (d) in any proceeding based on a cause of action arising while it was authorized to transact business on Tribal Lands.

(4) An address to which a person may mail a copy of any process against the foreign LLC.

(5) A commitment to notify the Office of the Secretary in the future of any change in the mailing address of the foreign LLC principal office.

§ 898. Grounds for Revocation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) Except as provided in Subsection (b), the Office of the Secretary may bring a proceeding under Section 899 to revoke the certificate of registration of a foreign LLC registered to transact business on Tribal Lands if any of the following applies:

(1) The foreign LLC failed to file its annual report with the Office of the Secretary within four months after it is due.

(2) The foreign LLC does not pay, within four months after they are due, any fees or penalties due the Office of the Secretary under this Tribal Limited Liability Company Code.

(3) The foreign LLC is without a registered agent or registered office on Tribal Lands for at least six months.

(4) The foreign LLC obtained a certificate of registration through fraud.

(5) The Office of the Secretary receives an authenticated certificate from the Secretary of State or other official having custody of LLC records in the state or country under whose law the foreign LLC is incorporated stating that it has been dissolved or disappeared as the result of a merger.

(b) The Tribal Court may revoke the certificate of registration of the foreign LLC registered to transact business on Tribal Lands. The Tribal Court shall notify the Office of the Secretary of the action, and the Office of the Secretary shall revoke the foreign LLC's certificate of registration under Section

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899(b)(2).

§ 899. Procedure for and Effect of Revocation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) If the Office of the Secretary determines that one or more grounds exist under Section 898(a) for revocation of a certificate of registration, the Office of the Secretary shall give the foreign LLC written notice of the determination by first class mail, addressed to the foreign LLC's registered office.

(b) Correction of grounds.

(1) Within 60 days after the notice takes effect, the foreign LLC shall correct each ground for revocation or demonstrate to the reasonable satisfaction of the Office of the Secretary that each ground determined by the Office of the Secretary does not exist.

(2) If the foreign LLC fails to satisfy Subsection (b)(1) above, the Office of the Secretary may revoke the foreign LLC's certificate of registration by entering a notation in the Office's records to reflect each ground for revocation and the effective date of the revocation. The Office of the Secretary shall give written notice of those facts to the foreign LLC by first class mail, addressed to the foreign LLC's registered office.

(c) If any such notice under this section is undeliverable, then the Office of the Secretary shall give written notice to the foreign LLC addressed to the principal office of the foreign LLC. Notice to the registered office or principal office takes effect at the earliest of the following:

(1) When received.

(2) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(d) The authority of a foreign LLC to transact business on Tribal Lands, other than as provided in Section 890(b), ends as of the effective date of revocation of its certificate of registration as reflected in the records of the Office of the Secretary.

(e) If the Office of the Secretary or the Tribal Court revokes a foreign LLC's certificate of registration, the foreign LLC may be served under Section 896(c) and (d) or the foreign LLC's registered agent may be served until the registered agent's authority is terminated, in any proceeding based on a cause of action which arose while the foreign LLC was registered to transact business on Tribal Lands.

(f) Revocation of a foreign LLC's certificate of registration does not terminate the authority of its registered agent.

§ 899-1. Appeal from Revocation. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

(a) A foreign LLC may appeal the Office of the Secretary's revocation of its certificate of registration under Section 898(a) to the Tribal Court. The foreign LLC shall appeal by petitioning the Tribal Court to set aside the revocation and attaching to the petition copies of its certificate of registration and the Office of the Secretary's notice of revocation.

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(b) The Tribal Court may order the reinstatement of the certificate of registration or may take any other action that the Tribal Court considers appropriate.

(c) The Tribal Court's final decision may be appealed as in other civil proceedings.

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PART 11
Effective Date And Authority

§ 899-2. Severability; Effect of Invalidity of Part of this Code. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

If the Tribal Court shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, article or part of this Code, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Code, but the effect thereof shall be confined to the clause, sentence, paragraph, section, article or chapter of this Code as adjudged to be invalid or unconstitutional.

§ 899-3. Effective Date. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

This Code shall be in full force and effect according to its terms upon adoption by the Tribal Council.

§ 899-4. Authority. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

This Code is enacted by the Grand Traverse Band Tribal Council under the authority vested in the Tribal Council by the Tribe pursuant to its inherent governmental power, fiscal authority, and tribal sovereignty as recognized in the Tribe's Constitution. The Tribal Council reserves the right to repeal or amend the provisions of this Code, subject to the limitation of Section 899-5.

§ 899-5. No Impairment of Contracts. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

Otherwise lawful contracts and other obligations of any LLC shall not be impaired by any subsequent action of the Tribe or the Tribal Council. Actions to restrain any attempts to impair contracts of Tribal LLCs, or to declare such actions null and void, shall be available to any interested party before the Tribal Court. Nothing in this section shall be construed to restrict the general application of law or of this Code to the acts and contracts of Tribal LLCs.

§ 899-6. Fees for Filing Documents and Issuing Certificates. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The Tribal Council is authorized to make regulations providing for reasonable fees for other services not specifically stated in the Title of this Code or to make changes in any and all fees for services set out in this Title. These changes shall be available through the Office of the Secretary.

§ 899-7. Certificates and Certified Copies to be Received into Evidence. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

All certificates or documents issued by the Tribal Council Secretary in accordance with the provisions of this Code and all copies of documents filed in his or her office in accordance with the provisions of this Code, when certified by him or her, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Tribal Council Secretary under the seal of his or her office as to the existence or non-existence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

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§ 899-8. Forms to be Furnished by Tribal Council Secretary. [History: Tribal Act #11-29.2313, enacted by Tribal Council February 15, 2012.]

The Tribal Council Secretary shall have the authority to prescribe certain forms for documents required by this chapter to be filed in the office of the Tribal Council Secretary; such forms shall be furnished by the Tribal Council Secretary and used by the public for such filing.

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Chapter 9
Business Site Leasing Ordinance

PART 1
Introduction

§ 901. Authority and Delegation. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

This ordinance is enacted by the Tribal Council pursuant to the powers vested to it under Article IV, Section 1 of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians, adopted February 24, 1988, and approved by the Secretary of the Interior on March 29, 1988, as may be amended from time to time. Pursuant to Section 16 of the Indian Reorganization Act (P.L. 73-383, 48 Stat. 984), the Tribal Council hereby expressly authorizes and delegates to the Grand Traverse Band Economic Development Corporation, a federally chartered corporation authorized by Section 17 of the Indian Reorganization Act, wholly owned by the Tribe, and established October 23, 1998, and amended May 2, 2000, the power and authority to lease Tribal land, in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, H.R. 205, 112th Cong. (2012), 25 U.S.C. § 415(h) (HEARTH Act), and this ordinance.

§ 902. Applicable Law. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The law applicable to leases approved pursuant to this ordinance is tribal law and applicable federal law.

§ 903. Scope. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The scope of application of this ordinance shall be limited to all business site leases on Tribal land that would, in the absence of this ordinance, require approval of the United States Secretary of the Interior pursuant to 25 U.S.C. § 415(a), and to all actions and decisions taken in connection with those leases. Nothing herein shall be construed to affect the terms and conditions of existing leases. This ordinance is not applicable to individually owned Indian land, allotted land, or land held in fee. This ordinance does not apply to mineral leases, prospecting permits, or mineral development agreements.

§ 904. Purpose. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The purposes of this ordinance are to:

(a) Recognize the authority of the Tribe by and through the Authority, to issue, review, approve, and enforce business site leases and establish streamlined procedures for environmental review in accordance with and pursuant to the authority in the HEARTH Act; and

(b) Promote self-determination, encourage economic self-sufficiency, and increase business activity and employment on Tribal land.

§ 905. Short Title. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

This ordinance shall be known and cited as the "Business Site Leasing Ordinance."

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PART 2
Definitions

§ 906. Definitions. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

As used in this ordinance, the capitalized terms set forth below shall have the following meanings:

(a) "Assignment" means an agreement between a lessee and an assignee whereby the lessee transfers all his/her rights and obligations to the assignee under a business site lease.

(b) "Authority" means the Grand Traverse Band Economic Development Corporation, a federally chartered corporation authorized by Section 17 of the Indian Reorganization Act and wholly owned by the Tribe, established October 23, 1998, and amended May 2, 2000, which the Tribe has authorized to perform the leasing duties and responsibilities of the Tribe as lessor under this ordinance. The Authority may delegate some of or all its leasing authority to tribal agencies on behalf of the Tribe.

(c) "Best Interest of the Tribe" means the balancing of interests in order to attain the highest economic income, provide incentives to increase economic development, preserve and enhance the value of Tribal land subject to a business site lease, increase employment and jobs on Tribal land subject to a business site lease, and preserve the sovereignty of the Tribe.

(d) "BIA" means the Bureau of Indian Affairs, United States Department of the Interior.

(e) "Business Site Lease or Lease" means a written agreement or contract between the lessor and a lessee whereby the lessee is granted a right to possess Tribal land for a specified purpose and duration, including a lease of space within existing facilities on Tribal land that is not already leased, consistent with this ordinance. The lessee's right to possess will limit the lessor's right to possess the leased premises only to the extent provided in the lease.

(f) "Change in Land Use" means the change from residential to non-residential, commercial to industrial, or one (1) industrial use to another that significantly differs from the former use.

(g) "Constitution" means the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians, adopted February 24, 1988, and approved by the Secretary of the Interior on March 29, 1988, as may be amended from time to time.

(h) "Development Period" means the time period from when a lease is executed to when improvements are expected to be substantially completed.

(i) "Environmental Review Process" means the process for conducting tribal environmental review to assess whether a proposed development or project resulting from a leasing decision under this ordinance will have a significant effect on the environment.

(j) "Environmental Reviewer" means an official from the Tribe's Natural Resources Department or as otherwise designated by the Tribal Council who is responsible for conducting the environmental review process.

(k) "Executing Official" means the delegated official of the Authority who shall execute all business site leases on behalf of the Tribe and take all necessary and proper action on leases and subleases, including amendments, modifications, assignments and cancellations of leases and subleases.

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(l) "Fair Annual Lease Value" means the most probable dollar amount a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement, including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations.

(m) "Holdover" means circumstances in which a lessee remains in possession of the leased premises after the lease term expires.

(n) "Leasehold Mortgage" means a mortgage, deed of trust or other instrument that pledges a lessee's leasehold interest as security for a debt or other obligation owed by a lessee under the lease.

(o) "Leasing Decision" in the context of the environmental review process means the following type of lease transactions that will be acted on by the Authority: lease issuance, lease amendment or modification, subleasing, lease assignment or transfer, and tenant leases.

(p) "Lessee" means a person or entity who has acquired a legal right to possess Tribal land by entering into a business site lease pursuant to this ordinance.

(q) "Lessor" means the Tribe, and the Authority, acting pursuant to authority delegated by the Tribe, who conveys the right to use and occupy Tribal land under a business site lease.

(r) "LTRO" means the Land Titles and Records Office of the Bureau of Indian Affairs.

(s) "Project" means any economic development activity or project occurring or intended to occur on Tribal land pursuant to a business site lease.

(t) "Public" means, for purposes of the environmental review process, any person or entity with the potential to be significantly affected by the business site lease or the lease activity.

(u) "Significant Effect on the Environment" means a substantial, or potentially substantial, adverse change in the environment, including land, air, water, minerals, flora, fauna, ambient noise, cultural areas and objects of historic, cultural or aesthetic significance.

(v) "Sublease" means a written agreement by which the lessee grants to a sublessee a right to possession no greater than that held by the lessee under a business site lease.

(w) "Sublessee" is an individual or entity to whom the lessee grants a right to possession no greater than that held by the lessee under a business site lease.

(x) "Tribe" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(y) "Tribal Council" means the duly elected governing body of the Tribe.

(z) "Tribal Land" means any tract in which the surface estate is owned by the Tribe in trust or restricted status.

(aa) "Trust or restricted status" means that the United States holds title to the tract in trust for the benefit of the Tribe, or that the Tribe holds title to the tract, but can alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under federal law or limitations in federal law.

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PART 3
Business Site Lease Requirements

§ 907. Terms and Conditions. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Leases shall be governed by the terms and conditions set forth in the business site lease agreement and this ordinance. The lessee is responsible for understanding these terms and conditions.

§ 908. Duration and Renewal. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The term of any business site lease shall not be more than twenty-five (25) years except that any such lease may include an option to renew for up to two (2) additional terms, each of which may not exceed twenty-five (25) years. A lease shall require that the lessee notify the Authority of its intent to renew, in writing, at least one (1) year before such lease is due to expire, unless a shorter period is set forth in the business site lease. The lease shall include the amount of additional consideration that is due at the start of the renewal term. A lessee that is in violation of the lease terms may not exercise the option to renew, unless the lessee cures the violation to the satisfaction of the Authority at least three (3) months before the start of the renewal term.

§ 909. Obtaining a Business Site Lease. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Information on obtaining a business site lease shall be available from the Authority.

(a) All applicants for a business site lease shall submit the following documents to the Authority:

(1) Financial information requested by the Authority it deems necessary to determine whether the proposed lessee can meet the obligations of the proposed lease and/or the requirements of the ordinance;

(2) Site survey and legal description, if applicable;

(3) Tribal environmental review where required; and

(4) Other documents as may be required by the Authority and pursuant to the Authority's Business Site Leasing procedures.

(b) All business site leases shall contain, at a minimum, the following provisions:

(1) The tract, location, or parcel of Tribal land being leased;

(2) A description of the project, including the purpose of the lease and authorized uses of the leased premises;

(3) The parties to the lease;

(4) The term of the lease;

(5) Identification of the responsible party for constructing, owning, operating, and maintaining any improvements to the leased premises;

(6) Payment requirements and late payments, including interest and penalties at negotiated rates;

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(7) Due diligence, insurance, and bonding requirements as provided in this ordinance. If a performance bond is required pursuant to this ordinance, the lease must state that the lessee must obtain the consent of the surety for any legal instrument that directly affects its obligations and liabilities;

(8) Removal and restoration plan requirements applicable to the leased premises at the expiration or cancellation of the lease;

(9) If the leased premises are within an Indian irrigation project or drainage district, except as otherwise provided in 25 CFR Part 171, the lessee must pay all operation and maintenance charges that accrue during the lease term, to the appropriate office in charge of the irrigation project or drainage district;

(10) If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with the lease, all activity in the immediate vicinity of such properties, resources, remains or other cultural items shall cease, and the lessee shall contact the Authority to determine how to proceed;

(11) There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises, and the lessee must comply with this ordinance and all applicable law covering both civil and criminal activity;

(12) The obligations of the lessee and its sureties to the lessor are also enforceable by the United States, so long as the land remains in trust or restricted status;

(13) Unless the lessee would be prohibited by law from doing so:

(A) The lessee holds the United States and the Tribe harmless from any loss, liability, or damages resulting from the lessee's use or occupation of the leased premises; and

(B) The lessee indemnifies the United States and the Tribe against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous materials from the leased premises that occurs during the lease term, regardless of fault, with the exception that the lessee is not required to indemnify the Tribe for liability or cost arising from the Tribe's negligence or willful misconduct; and

(14) Requirements for the Authority's approval of any amendments, assignments, subleases, or leasehold mortgages.

(c) Upon receipt of a business site lease and supporting documentation, including any required Tribal environmental review, the Authority will review and inform the lessee if the information is complete. If the information is not complete, the Authority will notify the lessee in writing as to what additional information or documents are required. If the information is complete, the Authority will notify the lessee in writing of the date of receipt and, within sixty (60) days, will approve, disapprove, or inform the lessee that it needs additional time. If additional time is needed, the Authority will inform the lessee of the reasons, and will have another thirty (30) days to approve or disapprove the lease.

(d) Unless the business site lease states otherwise, a lease may include, consistent with Tribal law, a provision to give Indian preference in hiring for employment purposes.

§ 910. Records. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on

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October 28, 2020.]

Records pertaining to business site leases shall be maintained and recorded as follows:

(a) The Authority is responsible for maintaining all records of all business site leases, including all renewals and amendments thereto, and for disseminating recorded memorandum of lease documents to the Tribal Council Secretary, the Tribal Environmental Department and, if required by the Tribal Council, to the Housing Department. An original or certified copy of any business site lease document, including the lease, renewal, sublease or assignment, and any other amendment entered pursuant to this ordinance shall be sent to the BIA for recording in its LTRO or to be processed as required under applicable BIA regulations or policy.

(b) Records compiled, developed, or received by the Authority in the course of review and approval of a business site lease under this ordinance are the property of the Authority and the Tribe.

§ 911. Land Descriptions. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Business site leases shall contain adequate site surveys and legal descriptions based on metes and bounds, rectangular or lot and block systems and/or be of sufficient detail to meet recording requirements for the BIA LTRO having jurisdiction over the Tribal land subject to the lease. To the extent that the lease includes a space lease, it shall contain adequate descriptions of the location and square footage of the space being leased and may include renderings, architectural drawings or other schematics to illustrate the location of the space to a specific location upon a tract of land subject to the lease.

§ 912. Appraisal; Local Studies. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) The fair annual lease value shall be determined by an appraisal or equivalent procedure performed by the Authority utilizing the following data: improvement cost, replacement cost, earning capacity, sales and lease data of comparable sites or by similar methodology as approved by the Authority and deemed to be in the best interest of the Tribe. An appraisal log reporting the methods of appraisal and value of trust land shall be attached to every business site lease, except as set forth in § 912(c) below.

(b) Alternatively, the fair annual lease value shall be determined by an appraisal performed by a licensed appraiser utilizing the Uniform Standards of Professional Appraisal Practice or commonly accepted method of appraisal. An appraisal log describing the method of appraisal and value of trust shall be attached to every business site lease.

(c) The appraisal process as set forth in § 912(a) and (b) above shall not be required if expressly waived in any lease.

§ 913. Fair Annual Lease Value. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) In determining the fair annual lease value for a business site lease, the Authority, in addition to the criteria in § 906(1), shall assume that the lessee and lessor each are acting prudently and knowledgeably, and that consummation of the lease contract as of a specified date and the passing of the leasehold from lessor to lessee shall occur under conditions whereby:

(1) Lessee and lessor are typically motivated;

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(2) Both parties are well informed or well advised, and acting in what they consider their best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) The rent payment is made in terms of cash in United States dollars and is expressed as an amount per time period consistent with the payment schedule of the lease contract; and

(5) The rental amount represents the normal consideration for the property leased unaffected by special fees or concessions granted by anyone associated with the transaction.

(b) No business site lease shall be approved for less than the present fair annual lease value as set forth in the appraisal, except as follows:

(1) The lease is in the development period;

(2) The Authority is providing an incentive for business to locate on business site lease land, and must provide lease concessions, lease improvement credits, and lease abatements to attract such businesses; or

(3) The Authority, in its discretion, waives such requirement and stipulates less than the present fair annual lease value because such action is in the best interest of the Tribe or for any other reason, including, without limitation, because the Tribe has a substantial membership interest in the tenant or lessee entity under a lease or derives a substantial economic benefit from a sublease given pursuant to a lease that is otherwise in conformity with this ordinance.

(c) A business site lease may be structured at a flat lease rate.

(d) A business site lease may be structured at a flat lease rate plus a percentage of gross receipts, if the lessee is a business located in a shopping center or mall, or the lessee generates over $1,000,000 annually in gross receipts.

(e) A business site lease may be structured based on a percentage of gross receipts or based on a market indicator.

(f) A business site lease must specify the dates on which all payments are due.

(g) A business site lease must specify that the lessee shall make payments directly to the Authority.

(h) Unless otherwise provided in the business site lease, payments may not be made or accepted more than one (1) year in advance of the due date.

(i) A business site lease may provide for periodic review, and such review may give consideration to the economic conditions, exclusive of improvement or development required by the contract or the contribution value of such improvements.

(j) Business site leases for terms of less than five (5) years may be structured to allow for lease rate adjustments. The lease shall specify how adjustments will be made, who will make such adjustments, when adjustments will go into effect, and how disputes shall be resolved.

(k) A business site lease may be amended to allow for lease rate adjustments.

(l) The Authority shall keep written records of the basis used in determining the fair annual lease value, as well as the basis for adjustments, as applicable. These records shall be presented to the lessee for its review and acceptance or non-acceptance and included in any lease file.

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§ 914. Environmental Review Process. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Unless exempted from this requirement under this ordinance, the Authority shall not approve a business site lease until the proposed lessee has completed the environmental review process under Part 6 of this ordinance. Leases approved and executed without complying with this section, unless exempted, shall be null and void.

§ 915. Insurance. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) A lessee shall provide insurance necessary to protect the interests of the lessor and in amounts sufficient to protect all insurable improvements on the premises.

(b) The insurance may include, but is not limited to, property, liability or casualty insurance or other insurance as specified in the business site lease.

(c) The lessor and the United States may be identified as additional insured parties.

(d) The Authority may waive the requirements of § 915(a) through (c) in its discretion, and by entering into a lease on different terms than as set forth in this § 914, the lease will control.

§ 916. Performance Bond. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) Unless waived in writing by the Authority in accordance with this ordinance, the lessee shall obtain a satisfactory performance bond in an amount sufficient to secure the contractual obligations of the lease. Such bond shall be for the purpose of securing the lessee's contractual obligations under the business site lease, shall be made payable to the Tribe and shall be deposited with the Authority, and may guarantee:

(1) The annual lease payment;

(2) The estimated development cost of improvements; and

(3) Any additional amount necessary to ensure compliance with the lease.

(b) The performance bond must require the surety to provide notice to the Tribe at least sixty (60) days before cancellation of the bond. Failure to provide a substitute performance bond is a violation of the lease. The Authority may waive the bond requirement, or reduce the amount, in its discretion, because such action is in the best interest of the Tribe or for any other reason, including, without limitation, because the Tribe has a substantial membership interest in the tenant or lessee entity under a lease or derives a substantial economic benefit from a sublease given pursuant to a lease that is otherwise in conformity with this ordinance. The Authority shall maintain written records of waivers and reductions.

(c) The performance bond may be in one (1) of the following forms:

(1) Certificates of deposit issued by a federally insured financial institution authorized to do business in the United States;

(2) Irrevocable letters of credit issued by a federally insured financial institution authorized to do business in the United States;

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(3) Negotiable Treasury securities; or

(4) Surety bond issued by a company approved by the U.S. Department of the Treasury.

§ 917. Improvements. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

All business site leases may require the lessee to exercise due diligence and reasonable commercial efforts, subject to force majeure and lessor interference, to complete construction of any improvements within the schedule specified in the business site lease, if applicable.

(a) The lessee, at the lessee's expense or as otherwise provided in the business site lease, may construct improvements under a business site lease if the lease specifies, or provides for the development of:

(1) A plan that describes the type and location of any improvements to be built by the lessee; and

(2) A general schedule for construction of the improvements.

(b) The lessee shall provide the Authority written justification as to the nature of any delay, the anticipated date of construction of the improvements, and evidence of progress toward commencement of construction.

(c) When requested by the Authority or otherwise required in the business site lease, the lessee shall further provide the Authority, in writing, an updated schedule for construction.

(d) Failure of the lessee to comply with these requirements will be deemed a violation of the Business site lease and may lead to cancellation of the business site lease pursuant to Part 5 of this ordinance, unless the requirements of this § 917 are waived by the Authority as provided in § 917(i) below.

(e) Improvements to the premises shall become the property of the Authority unless otherwise provided for in the business site lease. If improvements will be removed, the business site lease may specify the maximum time allowed for such removal.

(f) A lessee may develop equity value in the improvements, and sell its interest in the business site lease based on the equity value. The lessor shall have a right of first refusal to purchase the lessee's interest in the lease unless the terms of the lease provide otherwise.

(g) The business site lease may provide that at expiration, cancellation or termination of the lease, the lessor shall purchase improvements to the premises at fair market value.

(h) Improvements may be subject to taxation by the Tribe, except as otherwise set forth in the lease.

(i) The Authority may waive the requirements set forth in § 917(a) through (h), in its discretion, because such action is in the best interest of the Tribe or for any other reason, including, without limitation, because the Tribe has a substantial membership interest in the tenant or lessee entity under a business site lease or derives a substantial economic benefit from a sublease given pursuant to a lease that is otherwise in conformity with this ordinance, and such waiver shall not constitute a cancellation or nullity of the lease.

§ 918. Subleases, Assignments, Amendments and Encumbrances. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) Subleases, assignments, amendments or encumbrances of any business site lease shall be by written consent of the Authority and lessee, unless otherwise provided herein.

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(b) The business site leases may authorize subleases and assignments, in whole or in part, without approval from the Authority, provided a copy of the sublease or assignment is provided to the Authority and the following conditions, where applicable, are met and stated in the business site lease:

(1) There is no event of default under the business site lease or this ordinance;

(2) Any restrictions and use limitations on the use of the premises shall continue to apply to any subtenant or assignee;

(3) The proposed assignee or sublessee submits a current financial statement showing financial adequacy; and

(4) The lessee shall not be relieved or released from any of its obligations under the business site lease, unless a full assignment of the lease is made and the lease provides for a full release of the lessee from its obligations thereunder.

This § 918(b) in no way relieves the parties from carrying out their duties under the business site lease, which may contain additional restrictions and conditions.

(c) The business site lease may authorize encumbrances to the leasehold interest for the purpose of financing to develop and improve the premises subject to approval by the Authority.

(d) If a sale or foreclosure of the lessee's business or assets occurs and the encumbrancer is also the purchaser, the encumbrancer may assign the lease without approval of the Authority or lessee, provided the assignee agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Authority is required, provided the purchaser agrees in writing to be bound by all terms and conditions of the lease.

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PART 4
Business Lease Management

§ 919. Management. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) The Authority shall manage all business site leases pursuant to this ordinance and Applicable Law.

(b) The Authority may enact a Business lease management plan or policy that employs real estate management practices, addresses accounting, collections, monitoring, enforcement, relief, and remedies, provided such Business lease management plan or policy is consistent with this ordinance and the Act.

§ 920. Administrative Fees. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The Authority may charge administrative fees for costs associated with issuing a lease, sublease, assignment, amendment, mortgage or other administrative transaction, provided that the Authority may waive such fees, in its discretion, because such waiver is in the best interest of the Tribe or for any other reason, including, without limitation, because the Tribe has a substantial membership interest in the tenant or lessee entity under a lease or derives a substantial economic benefit from a sublease given pursuant to a lease that is otherwise in conformity with this ordinance; provided that if such fees are not waived, they must be specifically and expressly provided in the lease.

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PART 5
Enforcement

§ 921. Generally. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The Authority shall have all powers necessary and proper to enforce the lease terms, laws, ordinances, regulations, rules, policies, and covenants, consistent with this ordinance and Applicable Law. This includes the power to enter the premises at a reasonable time, with or without notice, assess penalties, and assess late payments.

§ 922. Defaults. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Unless otherwise set forth in the lease, defaults under a lease shall be governed in accordance with the following:

(a) If the Authority determines the lessee is in default, the Authority shall provide the lessee a written notice of default within five (5) business days of the determination. The notice of default may be provided by certified mail, return receipt requested, or by another nationally recognized mail carrier.

(b) Within ten (10) days of delivery, the lessee shall:

(1) Cure the default and notify the Authority in writing that the default has been cured.

(2) Dispute the Authority's determination that the lease is in default and explain why the lease should not be canceled; or

(3) Request additional time to cure the default.

§ 923. Remedies. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Unless otherwise set forth in the lease, the lessor shall have the following remedies upon default by the lessee:

(a) If the lessee fails to cure the default within the prescribed period, the Authority may:

(1) Cancel the lease pursuant to these regulations;

(2) Grant an extension of time to cure the default;

(3) Pursue other remedies, including execution on bonds or collection of insurance proceeds;

(4) Any combination of remedies listed above; or

(5) Any other remedy set forth in the business site lease, or available under applicable law.

(b) If the Authority cancels a business site lease, the Authority shall send the lessee a cancellation letter within a reasonable time period. The cancellation letter may be sent to the lessee by certified mail, return receipt requested, or by another nationally recognized mail carrier. The cancellation letter shall:

(1) Explain the grounds for cancellation;

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(2) Notify the lessee of unpaid amounts, interest charges or late payment penalties due under the lease;

(3) Notify the lessee of its legal recourse; and

(4) Order the lessee to vacate the premises within thirty (30) days of mailing of receipt of the cancellation letter.

(c) A cancellation shall become effective thirty-one (31) days after mailing.

(d) If the Authority decides to grant an extension of time to cure a default, the lessee shall proceed diligently to perform and complete the corrective actions within a reasonable time period.

§ 924. Penalties. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The lease shall specify the rate of interest to be charged if the lessee fails to make payments in a timely manner. The lease shall identify additional late payment penalties. Unless the lease provides otherwise, interest charges and late payment penalties shall apply in the absence of any specific notice to the lessee from the Authority, and the failure to pay such amount shall be treated as a breach of the lease.

§ 925. Harmful or Threatening Activities. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

If a lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon, the Authority may take appropriate emergency action, in compliance with the laws of the jurisdiction in which the Tribal land subject to the business site lease is located.

§ 926. Holdover. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

If a lessee remains in possession after the expiration or cancellation of a business site lease, the Authority shall treat such occupation as a trespass, except as provided in the lease. The Authority shall take action to recover possession and pursue additional remedies under tribal law, except as provided in the lease.

§ 927. Trespass. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

If a person occupies the premises without the Authority's approval, the Authority may pursue appropriate remedies, including the filing of a trespass action to regain possession under Tribal law.

§ 928. BIA Enforcement. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

In the event the Tribe requests BIA assistance in the enforcement of a business site lease, BIA may take action to enforce the provisions of a business site lease, including cancellation of the lease, after consultation with the Tribe.

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PART 6
Appeals

§ 929. Appeals. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Unless an alternative appeals process is provided in the lease, the lessee may appeal a determination of the Authority within ten (10) days of the determination. Appeals may be filed in the Tribal Court or other hearing body. Such appeals shall be effectuated by a written notice setting forth the basis for the appeal, a short statement indicating the nature and circumstances of the appeal, and a short statement indicating the remedy being sought.

§ 930. Scope of Review. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The Tribal Court or other hearing body shall review whether the determination was arbitrary, capricious, or an abuse of discretion; not supported by substantial evidence in the record; or otherwise not in accordance with the law. The decision of the Tribal Court or other hearing body shall be final.

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PART 7
Environmental Review Process

§ 931. Generally. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The Authority shall not approve a business site lease until the proposed business site lease has completed the environmental review process pursuant to this chapter and applicable Tribal regulations, unless the Authority waives the environmental review process, which it may do in its discretion or in accordance with § 932(a) hereof. Business site leases approved and executed without compliance with this chapter shall be null and void, provided that in no event shall a lease which is exempted from the environmental review process as provided above be deemed null and void for failure to comply with this chapter.

§ 932. Threshold Determination. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) Lessee Not Subject to Environmental Review Process. If the environmental reviewer determines that the leasing decision by its nature would not have a significant effect on the environment, the leasing decision is exempt from additional requirements of the environmental review process, subject to the environmental record requirements of applicable Tribal environmental regulations.

(b) Lessee Subject to Environmental Review Process. If the environmental reviewer determines that the leasing decision may be expected to have a significant effect on the environment, because it may: i) impact; ii) alter; iii) disturb; or iv) otherwise cause physical disturbances to the biological or natural resources of the Tribe, the lessee must fulfill the requirements of the environmental review process. The physical disturbances must be direct, such as land clearing, new building construction, or discharge of emission or effluent associated with the project.

(c) Statutory Exemption for Certain Leases. Leasing decisions involving a business site lease proposing the use of premises that are the subject of a completed federal environmental review under federal law shall be exempt from the environmental review process, and the Tribe shall not be required to prepare a TEIR under § 934 of this chapter.

§ 933. Action on Leasing Decision Subject to Completion of Environmental Review Process. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

If the environmental reviewer determines that the leasing decision is subject to the environmental review process, the Authority may not consider the leasing decision until the environmental reviewer closes the environmental review process in accordance with this ordinance and applicable Tribal environmental regulations.

§ 934. Environmental Review Process. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) Unless an exemption applies or a business site lease is otherwise not subject to the environmental review process, then, before the execution of any business site lease, the Authority shall cause to be prepared a comprehensive and adequate tribal environmental impact report ("TEIR"), analyzing the potentially significant effects of the project on the environment; provided, however, that information or data which is relevant to such a TEIR and is a matter of public record or is generally available to the public need not be repeated in its entirety in the TEIR, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly

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described, that its relationship to the TEIR shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. The Authority shall endeavor to have the TEIR completed within six (6) months from the date of the environmental reviewer's determination that the leasing decision is subject to the Environmental Review process, although the time may be extended as needed to ensure that the TEIR is sufficiently thorough and complete. The TEIR shall provide detailed information about the significant effect(s) on the environment which the project is likely to have, and shall include a detailed statement setting forth all of the following:

(1) A description of the physical environmental conditions in the vicinity of the project (the environmental setting and existing baseline conditions), as they exist at the time the notice of preparation is issued;

(2) All significant effects on the environment of the proposed project;

(3) In a separate section:

(A) Any significant effect on the environment that cannot be avoided if the lease is executed; and

(B) Any significant effect on the environment that would be irreversible if the lease is executed.

(C) Any mitigation measures proposed, recommended, or required.

(b) In addition to the information required pursuant to Subsection (a), the TEIR shall also contain a statement indicating the reasons for determining that various effects of the project on the off-reservation environment are not significant and consequently have not been discussed in detail in the TEIR. In the TEIR, the direct and indirect significant effects on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects.

§ 935. Notice of Completion of Draft TEIR. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

(a) Within no less than thirty (30) days following the completion of the draft TEIR, the Authority shall file a copy of the draft TEIR and a notice of completion with the Tribe. The Authority shall also post the notice of completion and a copy of the draft TEIR on the Tribe's website. The notice of completion shall include all of the following information:

(1) A brief description of the project;

(2) The proposed location of the project;

(3) An address where copies of the draft TEIR are available; and

(4) Notice of a period of thirty (30) days during which the Tribe will receive comments on the draft TEIR.

(b) To satisfy the requirement for providing the public with adequate notice and opportunity to comment, the Authority will provide public notice by at least one (1) of the procedures specified below:

(1) Publication of the Authority's draft TEIR in a newspaper of general circulation in the area affected by the proposed project, with notice to the public of the opportunity to comment on any significant effect on the environment of the leasing decision.

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(2) Posting of the Authority's draft TEIR in the offices of the Tribe and the Authority with notice to the public of the opportunity to comment on any significant effect on the environment of the leasing decision.

(3) Posting of the Authority's draft TEIR on the Tribe's website, with notice to the public of the opportunity to comment on any significant effect on the environment of the leasing decision.

§ 936. Response to Public Comments. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

After the thirty-day comment period has ended, the Authority will review all comments received from the public. Prior to the approval and execution of the business site lease, the Authority will provide responses to relevant and substantive public comments on any significant effect on the environment arising as a result of the proposed project and proposed or recommended mitigation measures addressing any such impacts.

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PART 8
Sovereign Immunity

§ 937. Sovereign Immunity Not Waived. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

Nothing in this ordinance shall be deemed to waive the sovereign immunity of the Tribe or any of its enterprises, authorities, officers, agents, or employees, provided that the jurisdiction for civil and criminal matters arising under the lease shall be as provided in the lease.

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PART 9
Conflict; Severability

§ 938. Conflict. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

The Authority shall have the discretion to waive any requirements under this ordinance where the Tribe has a substantial membership interest in the tenant or lessee entity under a lease or derives a substantial economic benefit from a sublease given pursuant to a lease that is otherwise in conformity with this ordinance; but where a conflict between this ordinance and such a business site lease exists, the ordinance shall control. Accordingly, any waiver of ordinance provisions, except as specifically provided in §§ 912(c), 913(b)(3), 915(d), 916(b), 917(i) and 920, must be done by duly enacted Tribal resolution and incorporated into the lease as an attachment.

§ 939. Severability. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

If any provision in this ordinance shall be declared to be invalid or unenforceable by a tribunal of competent jurisdiction, such declaration shall not affect the validity or effectiveness of the remainder of the provisions in this ordinance, which shall continue to be valid and enforceable.

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PART 10
Effective Date; Amendment

§ 940. When Effective. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

This ordinance shall take effect upon its adoption by the Tribal Council and approval by the Secretary of the Interior.

§ 941. Amendment. [History: Tribal Act #20-38.3291, enacted by Tribal Council in Special Session on October 28, 2020.]

This ordinance may be amended by a majority vote of the Tribal Council at a duly called Tribal Council meeting at which a quorum is present. All substantive amendments to this ordinance must be submitted to and approved by the Secretary of the Interior. No amendments to this ordinance shall have retroactive effect on any lease or sublease executed prior to the passing of such amendments.

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Chapter 10
Marijuana

PART 1
Findings, Purpose, and Policy

§ 1001. Findings. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

The Grand Traverse Band Tribal Council, on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians, finds that:

(a) The need to diversify the Tribal economy beyond what is primarily tourism-based businesses has become evident due to the severe financial impacts the Tribe has suffered as a result of extended business closures and lack of travel to the region caused by the Covid-19 pandemic.

(b) Marijuana is an economic commodity in an emerging market that is not based on tourism.

(c) Tribal regulation and control of the commercial cultivation, processing, distribution, and sale of marijuana for adult use within the Tribe's jurisdiction is essential for the protection of public health and welfare of the Tribe and residents and visitors to the Tribal community.

(d) Tribal regulation and control of the commercial cultivation, processing, distribution, and sale of marijuana for adult use within the Tribe's jurisdiction is in the best interest of the Tribe.

(e) The Tribe has the inherent authority to license and regulate the commercial cultivation, processing, distribution, and sale of adult-use marijuana within the Tribe's jurisdiction.

(f) Marijuana use is prohibited under federal law, 1970 Controlled Substance Act (prohibiting Cannabis Sativa L. and its derivatives), 21 U.S.C. Section 811 (a)-(i), as modified by the Agriculture Improvement Act of 2018 (permitting trace amounts of THC in hemp and CBD products), P.L.115-334 (2018), however, marijuana recreation and medical use is not prohibited under State of Michigan Law, Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 to 333.27967; see also, Michigan Licenses Rule Set that provide detailed rules under the following headings:

(1) Administrative Rules for the Michigan Medical Marihuana Program.

(2) Michigan Medical Marihuana Act.

(3) Marihuana licenses.

(4) Marihuana licensees.

(5) Marihuana Operations.

(6) Marihuana Sampling and Testing.

(7) Marihuana-Infused Products and Edible Marihuana products.

(8) Marihuana Sale or Transfer.

(9) Marihuana employees.

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(10) Marihuana Disciplinary Proceedings.

(11) Industrial Hemp Rules for Marihuana Businesses.

(12) Marihuana Facility/Establishment Laws.

(13) Marihuana Tracking Act.

(14) Medical Marihuana Facilities Licensing Act.

(15) Michigan Regulation and Taxation of Marihuana Act.

(16) Bulletins Page.

(17) Medical Marihuana Operation and Oversight Grants Application.

(18) County Grant Allotments.

(19) Municipal Guide.

(20) RAB 2020-17 Taxation of Adult-Use (Recreational) Marijuana Under the Michigan Regulation and Taxation of Marihuana.

(21) The Market for and Economic Impact of the Adult-Use (Recreational) Marijuana Industry at (michigan.gov.mra/) (last visited March 10, 2021), and more generally marijuana use in some form is legal in all but eight states:

(A) Recreational sales are legal in 16 states plus Washington D.C. (a federal enclave).

(B) Medical sales are legal in 36 states plus Washington D.C.

(C) Medical sales of CDB (low-THC) products are legal in 7 states.

(D) Marijuana use is decriminalized in 32 states.

(g) GTB Tribal Constitution provides that the Tribe has the authority "To levy and collect taxes, license fees, or assessments upon persons, entities, property, or activities subject to the jurisdiction of the Band *where not prohibited by federal law"* (emphasis supplied). Article IV Section 1(i). For purposes of this ordinance, the Tribal Council, acting in its combined "legislative and executive capacity," GTB Constitution Article IV Section 1, and with reference to GTB Constitution Article V Section 2 that "[jurisdiction] shall be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Tribe[]," finds that this tribal ordinance is not contrary to tribal and state law and is consistent with the "criminal prohibitory-civil regulatory" distinction articulated in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987) that authorized tribal activities so long as the tribal activities were not criminally prohibited under state law but rather were civilly regulated under state law. Therefore, this ordinance is consistent with state law and the standards of *Cabazon*. In further support of this proposition, the Council finds that the Assimilative Crimes Act, 18 U.S.C. Section 13, makes state law applicable to conduct occurring on lands reserved or acquired by the federal government as provided in 18 U.S.C. Section 7(3) when the act or omission is not made punishable by an enactment of Congress. Recognizing that federal law prohibits the use of marijuana for any purpose, the United States, nevertheless, has not prosecuted state actors or legislative action in the State of Michigan or any other of the 16 states in the Union that have authorized sales of marijuana for recreational purposes, any of the actors or legislative action in the 36 states in the Union that have authorized medical sales of marijuana, or any of the actors or legislative action in the 7

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states that have authorized sales of low-THC products for medical purposes. Therefore, the Tribal Council asserts that the same practice and principle of non-prosecution should be extended to the Tribe under this ordinance. Furthermore, the use of the Assimilative Crimes Act, (ACA) 18 U.S.C. 13, analysis could address any United States prosecutorial concerns for the safe and secure regulation of Marijuana use in Michigan Indian Country. Therefore, the Tribal Council finds that this tribal ordinance is not *prohibited by federal law* when the sovereign status of the GTB is considered in *pari materia* with the sovereign status of Michigan that laws on the same subject or matter must be construed with reference to each other (Michigan's sovereign status and GTB's sovereign status) to promote the principle of uniformity and predictability in the application of law. This ordinance is consistent with "prohibitory-civil regulatory" distinction and the application of the ACA to address any regulatory jurisdiction of the United States. Based on these findings, the Council specifically finds that this ordinance is not contrary to federal law, policy and practice, as administered by the present Department of Justice as of May 19, 2021, particularly in light of the February 2021 reaffirmed "Cole Memorandum" by nominee Attorney General Merrick Garland, now confirmed, originally issued in August of 2013 that the Justice Department would not prosecute "jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale and possession of marijuana"; nor is this ordinance contrary to GTB Constitution, Article IV, Section 1 (i) as violation of federal law based on DOJ current practice and policy.

(h) The Tribal Council further finds that based on the findings and rationales stated in Subsection (g) this ordinance would not be contrary to provisions of the Indian Self-Determination Education Assistance Act, 25 U.S.C., Sections 5301-5423, the Indian Health Care Improvement Act, 25 U.S.C., Section 1601, et seq., the Native American Housing Assistance and Self-Determination Act, 25 U.S.C., Sections 4101 et seq., the Indian Gaming Regulatory Act, 25 U.S.C., Section 2701 et seq., the Indian Law Enforcement Reform Act, 25 U.S.C., 2801 et seq., that provide contrary authority that marijuana is prohibited under federal law and the tribal programs administered by these listed federal laws. Nevertheless, to the extent that a conflict exists between these listed federal statutes and federal programs administered by GTB, and this ordinance, then GTB policy program administration is directed to follow federal law for these identified federal laws in the administration of tribal programs or enterprises.

§ 1002. Purpose. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

Under the authority of Tribal Constitution, Article III, Section 3 (a)(7), Section 5(e)(1); Article V, Section 2; Article VI; Article XIII Section 2(a), the purpose of this ordinance is to:

(a) Make the commercial cultivation, processing, distribution, and sale of marijuana and marijuana products for adult (persons over the age of 21) use legal within the Tribe's jurisdiction for Tribal entities licensed pursuant to this ordinance;

(b) Regulate the commercial cultivation, processing, distribution, and sale of marijuana within the Tribe's civil and criminal jurisdiction;

(c) Regulate, control, and license all commercial marijuana activity occurring within the Tribe's civil and criminal jurisdiction; and

(d) Prevent the sale, cultivation, processing, and distribution of marijuana within the Tribe's civil and

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criminal jurisdiction not consistent with this ordinance.

§ 1003. Policy. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The establishment, promotion, and operation of commercial activities related to adult use marijuana activity within the Tribe's jurisdiction is necessary and desirable provided that such activity is regulated and controlled by the Tribe pursuant to Tribal law consistent with the substantive law of the state regulating marijuana activity, such as those relating to the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, preventing the unlawful diversion of marijuana to other jurisdictions, preventing authorized marijuana activity from being used as a pretext for the trafficking of other illegal drugs or activity, preventing violence in the cultivation and distribution of marijuana, preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use, and preventing the growing of marijuana and its attendant public safety an environmental danger on publicly accessible lands.

(b) The revenue generated from marijuana activity authorized under this ordinance shall be used to support and enhance marijuana business growth within the Tribe's jurisdiction and to provide funds to Tribal government to support the provision of services including, but not limited to, law enforcement, education, health care, and social services.

(c) When operated in accordance with the provisions of this ordinance, such marijuana activity will be conducive to the general welfare of all residents of the Tribe's jurisdiction and six country service area as defined by the Tribe's Constitution, Article I, Section 2.

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PART 2
Definitions

§ 1004. Definitions. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

In this ordinance, except where otherwise specifically provided, or the context otherwise requires, the following terms and expressions shall have the following meanings:

(a) "Act" or "the Act" means the Michigan Regulation and Taxation of Marijuana Act, MCL §§ 333.27951 et seq.

(b) "Adult" means a person over the age of 21 years.

(c) "Applicant" means the EDC acting in its Section 17 capacity under the Indian Reorganization Act or a limited liability company established by a Tribal entity under the Tribal LLC Code, a term that is defined therein.

(d) "Band" means the Grand Traverse Band of Ottawa and Chippewa Indians.

(e) "Council" or "Tribal Council" means the 25 U.S.C. § 5123 (§ 16 of the Indian Reorganization Act) governing body of the Grand Traverse Band of Ottawa and Chippewa Indians.

(f) "Commission" means the Grand Traverse Band Marijuana Regulatory Commission.

(g) "Tribal Constitution" means the Constitution of the Grand Traverse Band as amended.

(h) "Consultant" means a business entity contracting with the Band or an entity of the Band to provide management-level services related to the cultivation, processing, distribution, sale, or other services related to the commercialization of marijuana.

(i) "Economic Development Corporation" means the federally chartered corporation under 25 U.S.C. § 5124 (§ 17 of the Indian Reorganization Act) codified at 15 GTBC, Chapter 2.

(j) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marijuana plant by manual or mechanical means.

(k) "Edible marijuana product" means any marijuana infused product-containing marijuana that is intended for human consumption in a manner other than smoke inhalation.

(l) "Employee" means an employee of a licensee.

(m) "Jurisdiction" or "Band's jurisdiction" means the Band's "territory" as defined by Article I Section I of the Tribal Constitution and any land presently established as Indian Country under federal law or future case law or federal statute establishment of Indian Country.

(n) "Licensee" means any Tribal entity, employee, vendor, or consultant holding a license issued by the Commission.

(o) "Marijuana" means all parts of the plant of the genus marijuana, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marijuana concentrate

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and marijuana-infused products. For purposes of this act, marijuana does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake, made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) Industrial hemp, as defined in 7 U.S.C. § 5490(a)(2); or

(3) Any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(p) "Marijuana Activity" means the growth, processing, distribution, sale, or other act related to marijuana authorized by this ordinance.

(q) "Marijuana Concentrate" means the resin extracted from any part of the plant of the genus marijuana.

(r) "Marijuana Establishment" means any tribal establishment created by a licensee for the purposes of engaging in marijuana activity that is permitted by this ordinance.

(s) "Marijuana grower" means a person or tribal entity licensed to cultivate marijuana and sell or otherwise transfer marijuana from a tribal establishment to another marijuana establishment within "Indian Country" (as defined by 18 U.S.C. 1151) or specifically licensed to sell outside Indian Country to a State of Michigan licensed marijuana establishment.

(t) "Marijuana-infused Product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marijuana and other ingredients and that is intended for human consumption.

(u) "Marijuana license" means a license issued by the Commission to a qualified Tribal entity, employee, vendor, or consultant authorizing such persons and entities to engage in commercial marijuana activity within the Band's jurisdiction.

(v) "Marijuana processor" means a person or tribal entity licensed to obtain marijuana from marijuana establishments; process and package marijuana; and sell or otherwise transfer marijuana or marijuana product to marijuana establishments within Indian Country or specifically licensed to sell outside Indian Country to a State of Michigan licensed marijuana establishment.

(w) "Marijuana retailer" means a person or Tribal entity licensed to obtain marijuana from marijuana establishments and to sell or otherwise transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.

(x) "Marijuana Safety Compliance Facility" means a facility authorized by the Commission to test marijuana and marijuana products to ensure safety for distribution and use as well as compliance with this ordinance and any rules, regulations or procedures promulgated by the Commission.

(y) "Ordinance" means this ordinance, the Grand Traverse Band Marijuana Ordinance, as now or hereafter amended.

(z) "Process" or "Processing" means to separate or otherwise prepare parts of the marijuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marijuana concentrate or marijuana-infused products.

(aa) "Record" means books, ledgers, documents, writings, photocopies, correspondence, electronic

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records, videotapes, surveillance footage, electronic storage media, electronically stored records, money receptacles, equipment in which records are stored, including data or information in tracking system described in § 1039 of this ordinance, or any other document that is used for recording information.

(bb) "Tribal entity" means a wholly owned economic development entity of the Grand Traverse Band or any entity wholly owned by such entity.

(cc) "Tribal Judiciary" means the Grand Traverse Band Tribal Court.

(dd) "Vendor" means a person or entity providing goods or services that are less than management-level services related to the cultivation, processing, distribution, sale, or other services related to the commercialization of marijuana.

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PART 3
General Provisions; Policy Background

§ 1005. Authority and Sovereign Powers and Responsibilities. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) This ordinance is enacted pursuant to the inherent sovereign powers of the Band and the powers expressly delegated to the Tribal Council by Article IV of the Tribal Constitution.

(b) The regulation of Marijuana Activity shall be the responsibility of the Marijuana Regulation Commission, as set forth in Part 5 of this ordinance.

§ 1006. Grand Traverse Band Tribal Policy of Self Government. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

The Band is firmly committed to the principle of Tribal self-government. Consistent with federal policy, Tribal government provides a wide range of public services, including general governmental services, the maintenance of peace and good order, the establishment of educational programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Band.

§ 1007. Title, Repeal of Prior Laws, and Effect of Repeal. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) This ordinance may be cited as the GTB Marijuana Ordinance. This ordinance shall be appropriately inserted into the Grand Traverse Band Tribal Code [Grand Traverse Band Code (G.T.B.C.)].

(b) This ordinance shall be construed and applied consistent with the provisions of 9 GTBC Section 107 (p)(1)(A)(i)(ii).

§ 1008. Construction. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) In construing the provisions of this ordinance, unless the context otherwise requires, the following rules shall apply:

(1) This ordinance shall be liberally construed to effectuate its purposes.

(2) Words in the present tense include future and past tenses.

(3) Words in the singular number include the plural, and words in the plural include the singular.

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(4) Words of the masculine or neuter gender include masculine and feminine genders and the neuter.

(b) This ordinance does not limit the application of any other remedies or sanctions that are available through tribal, state, and federal laws, and the GTBC.

§ 1009. Savings Clause. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

If any section of this ordinance or the application of it to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this ordinance and application to other persons or circumstance are not affected.

§ 1010. Tribal Ownership of Marijuana Establishments. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

All marijuana establishments shall be owned by a Tribal entity.

§ 1011. Sovereign Immunity of the Band. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

All inherent sovereign rights of the Band as a federally recognized Indian Tribe are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court.

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PART 4
Limited Application

§ 1012. Strictly Interpreted. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

This ordinance authorizes the commercial cultivation, processing, distribution, and sale of marijuana. This authorization shall be strictly and narrowly construed. Any marijuana-related activity not specifically authorized by this ordinance, are done in violation of this ordinance.

§ 1013. Inconsistent Laws of the Tribe. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that are alleged to be inconsistent with this ordinance are subject to Tribal judicial review by Tribal members in the GTB Tribal Court in the nature Declaratory Judgment to determine to determine whether the titles, chapters, and sections are inconsistent and therefore do not apply to conduct that is permitted by this ordinance.

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PART 5
Commission of Marijuana Regulation

§ 1014. Establishment; Residency and Place of Business; Immunity. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) Pursuant to Article IV, Section 1(c)(h) and (m) of the Constitution, the Band hereby charters, creates and establishes the Grand Traverse Band Marijuana Regulatory Commission ("The Commission") as a subordinate organization of the Band and delegates to it control authorities, powers, and duties to act as the primary regulator of commercial marijuana activity within the Band's jurisdiction. The Commission shall have three members consisting of at least two tribal members and a non-member provided that the non-member offers unique skills, experience to the Commission.

(b) The Commission shall be operated within the EDC structure of 25 U.S.C. § 5124 as an independent Commission for the regulation of tribal marijuana activities as authorized by this statute.

(c) The Commission is a resident of, and will maintain its principal place of business, on the Reservation of the Band in Peshawbestown, Michigan. The Commission may conduct business under this ordinance at any location within the six-county service area that it deems to be in the best interests of the Band.

(d) As a subordinate organization, the Commission enjoys the same attributes of sovereignty as the EDC, 25 U.S.C § 5124, including, but not limited to, sovereign immunity from suit and liability in any jurisdiction, court, or venue.

(e) The power of appointment and removal to the Commission shall be exercised by the Tribal Council. Appointment and removal or Commission members shall only be done by the full seven-member Tribal Council by majority vote of at least 4 council members voting for appointment or removal. The standard of removal is at the discretion of the Council.

(f) The Commission shall follow the provisions of Title 1, Chapter 2, Committee Procedures and Title 2, Tribal Administration, Chapter 5, GTB Open Access to Meetings Act.

§ 1015. Delegation of Powers to the Marijuana Regulatory Commission. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission shall have the following powers to administer and enforce the laws of the Band relating to commercial marijuana activity:

(1) Make such rules and regulations and establish such services as it deems necessary to carry out the provisions and purposes of this ordinance, subject to the approval of the Tribal- EDC, 25 U.S.C. § 5124.

(2) Recommend to the Tribal EDC, U.S.C. § 5124, policies for marijuana regulation and licensing.

(3) Issue licenses to and register those individuals or entities that shall be subject to the provisions

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of this ordinance.

(4) Conduct audits of the marijuana establishments created under this ordinance and make reasonable requests for any financial or other information from the marijuana establishments that are necessary to ensure compliance with this ordinance and any rules and regulations promulgated by the Commission.

(5) Direct the investigation of any reported violations of this ordinance.

(6) Make or cause to be made reasonable inspections or investigations of licensees and related individuals or entities, as the Commission deems necessary to ensure compliance with this ordinance. In undertaking such investigations, the Commission may request the assistance of licensees, federal, state and local law enforcement officials, legal counsel, and other appropriate third parties.

(7) Be responsible for the enforcement of this ordinance, including setting fines and imposing other penalties deemed appropriate for failure to comply with the provisions of this ordinance and any rules and regulations promulgated by the Commission.

(8) To exercise the Tribal power to tax authorized by the Constitution Article IV Section 1 (i) in accordance with a specific Tribal Council resolution delegating the scope, nature, process of such taxing power to the Commission and in accordance with this ordinance and other applicable law.

(9) Adopt a schedule of fees to be charged for licenses and background investigations, subject to the approval of Tribal EDC by motion of the EDC, and pursuant to the Tribal power to "levy and collect taxed, license fees, or assessment upon persons, entities, property or activities subject to the jurisdiction of the Band where not prohibited by federal law." Article IV Section 1 (i). Additionally, the Executive Director may waive a fee, upon a finding that such waiver of fees is in the best interest of the Band.

(10) Exercise any additional powers and duties as delegated by Tribal Council to the Commission to fully carry out the provisions of this ordinance and any rules and regulations promulgated by the Commission.

(b) The Commission shall not regulate the Band or any entities of the Band outside of marijuana activity.

(c) All policies, procedures, and regulations of the Commission, whether new or amended, are not valid until approved by motion of the Tribal Council.

§ 1016. Executive Director. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Tribal EDC shall hire an Executive Director of the Commission of Marijuana Regulation, who shall be the chief administrative officer of the Commission. The Executive Director shall be at least 21 years of age and shall be selected on the basis of administrative ability, background in regulatory activity or law enforcement, and general knowledge of commercial marijuana activities and business principles.

(b) Prior to hiring, the Tribal EDC shall perform a background check on the Executive Director. No person shall be appointed Executive Director if:

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(1) His or her prior activities, criminal record, if any, or reputation, habits or associations:

(A) Pose a threat to public interest; or

(B) Threaten the effective regulation and control of marijuana within the Band's jurisdiction; or

(C) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the regulation of marijuana within the Band's jurisdiction;

(2) He or she has been convicted of or entered a plea of nolo contendere to a felony involving a controlled substance; or

(3) He or she has been convicted of or entered a plea of nolo contendere to a felony or to a misdemeanor involving dishonesty or moral turpitude in any jurisdiction.

§ 1017. Powers and Duties of the Executive Director. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Executive Director shall have the authority to hire and manage a reasonable staff as required to carry out the powers and duties of the Commission.

(b) In addition to any other powers and duties set forth in this ordinance, the Executive Director shall supervise and control all activities, functions, and employees of the Commission and shall oversee the enforcement of the provisions of this ordinance, including any rules and regulations promulgated by the Commission.

(c) Upon prior resolution and approval of the Tribal- EDC, the Executive Director may employ such advisors as the Executive Director may deem necessary. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists and marijuana professionals.

(d) The Commission shall provide a quarterly report to the Tribal EDC and Tribal Council summarizing Commission reports and financials, investigative reports and reports received from all marijuana retail establishments within the Band's jurisdiction as it deems necessary to keep the Tribal EDC and Tribal Council fully informed as to the status of the Commission's activities.

§ 1018. Assets of the Commission. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

The Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired in its name by the Band or by it on its own behalf. No activity of the Commission or any indebtedness incurred by it shall implicate or in any way involve any credit or assets of tribal members or the Band not assigned in writing to the Commission.

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PART 6
Marijuana License

§ 1019. General. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) Every Tribal entity, employee, vendor, or consultant seeking to engage in, or assist with the cultivation, production, processing or sale of marijuana within the Band's jurisdiction must obtain and maintain a marijuana license from the Commission.

(b) An individual seeking to obtain a marijuana license may only submit an application on his or her behalf or on behalf of the vendor, consultant, or Tribal entity. The applicant shall not submit an application to act as a stand in for another individual or entity whose marijuana license has been suspended or revoked or who is otherwise ineligible to obtain a license. If the Commission determines that an individual submitted any application for the purpose of acting as a stand in, the Commission shall immediately deny the application or revoke the issued license.

(c) Each Tribal entity, vendor, or consultant must submit a separate application for each type of marijuana activity the applicant wishes to participate in. For example, if an applicant wishes to cultivate, process and sell marijuana, or provide goods or services related to that activity within the Band's jurisdiction, the applicant must submit a separate application for each activity. The Commission may waive this requirement for a Tribal entity at the Commission's discretion.

§ 1020. Application for Tribal Entity. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

A Tribal entity seeking to obtain a marijuana license must submit a complete marijuana license application to the Commission. A marijuana license application must be made under oath on a form provided by the Commission, and must, at a minimum, contain the following information:

(a) The type of marijuana license the Tribal entity is applying for;

(b) The name, address, date of birth, copy of a government-issued identification, and contact information for any manager, director, or officers of the Tribal entity;

(c) A complete criminal history report on the form provided by the Commission for any manager, director, or officer of the Tribal entity; and

(d) Written permission from each manager, director, or officer of the Tribal entity giving the Commission the right to access and review his or her background including his or her criminal record, and to share this information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this ordinance.

(e) A written disclosure of:

(1) All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against any manager, director or officer of the Tribal entity, that are related to business operations, including, but not limited to fraud, environmental,

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food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;

(2) All licenses related to marijuana held by any manager, director, or officer of the Tribal entity, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;

(3) All ownership interests in any present or past business ventures for any manager, director, or officer of the Tribal entity;

(4) Any other disclosure required by the Commission;

(5) An affirmation that all managers, directors, or officers of the Tribal entity do not currently, and shall not have any relationship with any individual involved in an illegal drug market; and

(6) An affirmation that the information contained in the application is true and correct to the best of the Tribal entity's knowledge;

(7) Any other information, disclosures, or affirmations required by the Commission.

§ 1021. Application for Consultant. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

Any consultant seeking to obtain a marijuana license must submit a complete marijuana license application to the Commission. A marijuana license application shall be made under oath on a form provided by the Commission. Each question on the application must be answered by the applicant in its entirety and must, at a minimum, contain the following information:

(a) The type of Marijuana Activity the applicant is applying for.

(b) The applicant's name, address, date of birth, copy of a government-issued identification, and contact information for the applicant and any person who controls the applicant directly or indirectly.

(c) If the applicant represents a business entity, the applicant shall submit:

(1) The name, address, date of birth, copy of a government-issued identification and contact information for any individual owning more than a 10% interest in the entity;

(2) The full name of the business;

(3) A certificate of good standing from the business's jurisdiction of formation;

(4) The principal business address;

(5) The employer identification number ("EIN") of the business; and

(6) The full name, phone number, and email address of any officers, directors, or employees that have signing authority for the business.

(d) A complete criminal and financial history report on the form provided by the Commission for the applicant, and any owners, directors, or other persons who have a direct or indirect interest in the marijuana retail establishment.

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(e) Proof of financial responsibility for liability for bodily injury on the form prescribed by the Commission, for an amount of no less than $300,000. If the proof required in this subsection is a bond, the bond must be in a format acceptable to the Commission.

(f) A signed and notarized disclosure of:

(1) All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;

(2) All licenses related to marijuana, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;

(3) All existing and previous relationships with Indian tribes, including ownership or interest in any tribal businesses;

(4) All ownership interests in any present or past business ventures; and

(5) Any other disclosure required by the Commission.

(g) A written attestation that the applicant:

(1) Consents to any criminal and financial background investigation conducted by the Commission under this ordinance;

(2) Consents to access and review of the applicant's background, including his criminal record, and to sharing this information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this ordinance;

(3) Consents to any inspections, examinations, searches, seizures, investigations of compliance, regular inspections, and auditing of books and records conducted by the Commission under this ordinance; and

(4) Affirms the applicant's continued duty to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are allowed by law; and

(5) Affirms the applicant's continued duty to cooperate in any investigation, inquiry, or hearing conducted or requested by the Commission.

(h) A sworn statement that:

(1) If the license applied for is issued, the applicant will submit to the jurisdiction of the Band and the Commission;

(2) If the license applied for is issued the applicant will abide by all applicable Tribal laws, regulations and policies;

(3) The applicant does not currently, and shall not have any relationship with any individual involved in an illegal drug market; and

(4) The information contained in the application is true and correct to the best of the applicant's knowledge.

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(i) Any other information, documentation, statements, attestations, or disclosures requested by the Commission.

§ 1022. Application for Vendor. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

Prior to doing business with a licensee a vendor must:

(a) Disclose any licenses or business interests relating to marijuana that the vendor currently holds in any jurisdiction.

(b) Submit a sworn statement that the vendor:

(1) Will submit to the jurisdiction of the Band and the Commission;

(2) Will abide by all applicable Tribal laws, regulations and policies;

(3) Does not currently, and shall not have any relationship with any individual or entity involved in an illegal drug market;

(4) Consents to any criminal and financial background investigation conducted by the Commission under this ordinance;

(5) Consents to the Commission sharing the vendor's information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this ordinance and the laws of other jurisdictions; and

(6) Consents to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are required by law.

§ 1023. Commission Review of Marijuana License Applications. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission shall use the information provided on the application as a basis to conduct a thorough background investigation on the applicant. The Commission shall notify the applicant of any deficiency and provide instructions for submitting a complete application. The applicant shall timely respond to the notice of the deficiency in accordance with this subsection.

(b) A nonrefundable application fee in an amount set by the Commission must be paid at the time of filing to defray the costs associated with the background investigation conducted by the Commission. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the Commission. Additionally, the Commission may waive any fee charged for licenses or background investigations, upon a finding that such a waiver of fees is in the best interest of the Band.

§ 1024. License Issuance. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted

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by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) Failure to comply with any of the application requirements listed § 1020 or § 1021 of this ordinance or any other requirements otherwise established by the Commission shall be grounds for denial of the application.

(b) Failure to pay any fees required by the Commission may result in a denial of the application.

(c) If the Commission identifies a deficiency in an application, the agency shall notify the applicant and the applicant shall submit the missing information or proof that the deficiency has been corrected to the Commission within 10 days of the date the applicant received the deficiency notice. The application is considered incomplete until the Commission receives the missing information or proof that the deficiency has been corrected.

(d) The failure of an applicant to correct a deficiency within 10 calendar days of notification by the Commission may result in the denial of the application. An applicant denied under this subsection is not barred from reapplying by submitting a new application and fee.

(e) Once the Commission receives a complete application, the Commission shall thoroughly review the application materials within a reasonable amount of time and provide the applicant with a notice of acceptance or denial of the application. If the Commission accepts the application, the Commission shall issue a temporary license to the applicant within 14 business days of acceptance. If the Commission denies the application, the Commission shall provide the applicant with the reason for denial in the notice of denial.

(f) The Commission shall not issue a license until the proposed marijuana establishment is complete and the Commission has done a physical prelicensure inspection in accordance with § 1026. If the Commission determines that the proposed marijuana establishment does not conform to this ordinance or any Commission rules or regulations, the Commission shall not issue a license to the applicant until the establishment conforms to the requirements of this ordinance or any Commission rules or regulations.

(g) Upon issuance of a license, the Commission shall provide the licensee with a unique marijuana license Number and shall create and maintain a file for the license using this Number.

(h) A licensee has a continuing duty to update any changes in information to the Commission and to cooperate in any investigation, inquiry, or other process conducted by the Commission. Failure to update any changes in information may result in the denial of the license.

§ 1025. Persons and Entities Ineligible for a Marijuana License. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A person is ineligible to receive a marijuana license if any of the following circumstances exist:

(1) He or she has a prior conviction that involved distribution of a controlled substance to a minor;

(2) He or she has knowingly provided the Commission with false information;

(3) He or she is an employee, officer, or consultant of the Commission involved in the

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implementation, administration, or enforcement of this ordinance;

(4) He or she holds an elective office of a governmental unit of any state, the Tribe or the federal government; is a member of or employed by a regulatory body of a governmental unit in any state, or the federal government or is employed by a governmental unit of any state;

(5) He or she fails to pay the licensure fee, or any other fee set by the Commission within the time frame set by the Commission; or

(6) He or she fails to meet any other criteria reasonably established by the Commission.

(b) An entity shall be ineligible for a marijuana license if the Commission, after an adequate review, determines the application is incomplete or deficient, or that the authorization of the Tribal entity poses a threat to the Band, the public interest, or the effective regulation of Marijuana, or creates or enhances the danger of unsuitable or illegal practices and methods and activities in Marijuana production, or the Tribal entity has not demonstrated the capacity to comply with applicable federal, state, local, and Tribal regulation.

(c) In determining whether to grant a marijuana license to an applicant, the Commission may consider other factors, including but not limited to:

(1) Whether the applicant or anyone who will have ownership in the proposed marijuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marijuana establishment is unlikely to be operated with honesty and integrity;

(2) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under tribal, federal, state, or local law that has been delinquent for one or more years;

(3) Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, within the Band's jurisdiction, or any state, federal, or tribal jurisdiction.

(4) Whether the applicant has operated a marijuana establishment without licensure in violation of this ordinance.

(5) The applicant or anyone who will have ownership in the proposed marijuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marijuana establishment is unlikely to be operated with honesty and integrity.

§ 1026. Prelicensure Inspection of Marijuana Establishments. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission shall establish an inspection process to ensure that the applicants and proposed marijuana establishments meet the requirements of this ordinance.

(b) The Commission shall establish and publish physical requirements for each type of marijuana

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establishment to ensure the safety of licensees, customers, and the general public. The standards shall be P100 Facilities Standards for the Public Buildings Service (PBS) of the U.S. General Services Administration (GSA) or similar published industry standards accepted by the industry.

(c) The Commission shall inspect the premises in accordance with this ordinance and Commission established procedures.

(d) The Commission may require additional inspections by other agencies.

(e) A marijuana establishment must meet and comply with all permitting, inspection, public safety, construction, and other requirements required by this ordinance, its related regulations, and as otherwise required by Tribal law.

§ 1027. Marijuana License Renewal Application and Renewal Fees. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) Any Tribal entity or consultant seeking to renew a marijuana license must submit a complete, signed and accurate marijuana license renewal application and any license renewal fee to the Commission at least 30 days prior to the expiration date of the licensee's marijuana license.

(b) The marijuana license renewal application shall be on a form provided by the Commission and shall require the following information, at a minimum:

(1) The type of marijuana license the licensee holds;

(2) The marijuana license number;

(3) Any changes in information since the license was last issued;

(4) Any disciplinary action taken by the Commission, Tribal Law Enforcement, or other Tribal government entity against the licensee since the license was last issued;

(5) Any disciplinary action taken by the Commission, Tribal Law Enforcement, or other Tribal government entity against the licensee or an employee of the licensee since the license was last issued;

(6) A signed and notarized disclosure of:

(A) All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the licensee or any manager, director or officer of the licensee, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;

(B) All licenses held by the licensee or any manager, officer or director of the licensee related to marijuana, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;

(C) All ownership interests in any present or past business ventures for the licensee or any manager, director, or officer of the licensee;

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(D) If the licensee is a consultant, all existing and previous relationships with Indian tribes, including ownership or interest in any tribal businesses; and

(E) Any other disclosure required by the Commission.

(7) A written attestation that the licensee and all managers, directors, or officers of the licensee continue to:

(A) Consent to any criminal and financial background investigation conducted by the Commission under this ordinance;

(B) Consent to access and review of the applicant's background, including his criminal record, and to sharing this information with any state, local, or federal agency for the purposes of enforcing compliance with this ordinance;

(C) Consent to any inspections, examinations, searches, seizures, investigations of compliance, regular inspections, and auditing of books and records conducted by the Commission under this ordinance; and

(D) Affirm the licensee's continued duty to comply with all reasonable information requests by the Commission; and

(E) Affirm the licensee's continued duty to cooperate in any investigation, inquiry, or hearing conducted or requested by the Commission.

(8) A sworn statement that:

(A) The information provided in the licensee's marijuana renewal license application is current, complete, true, and accurate, and that the licensee has fulfilled its obligation under this ordinance to notify the Commission of any change in information provided in its original license application and subsequent annual renewal form or forms previously filed, if applicable; and

(B) The licensee and all mangers, directors, or officers of the licensee do not currently, and shall not have any relationship with any individual involved with the illegal drug market.

(9) If the licensee is a consultant, the licensee must provide a sworn statement that:

(A) The licensee continues to submit to the jurisdiction of the Band and the Commission; and

(B) The licensee will continue to abide by all applicable Tribal and State laws, regulations and policies.

(10) Any other information requested by the Commission.

§ 1028. Marijuana Grower License. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana grower license authorizes a marijuana grower to grow not more than the number of plants indicated on the license. A single marijuana grower may not grow more than 2,000 plants at one time. The Commission may grant exceptions to this restriction on a case-by-case basis.

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(b) A marijuana grower may possess, package, and store marijuana within the marijuana grower's marijuana establishment.

(c) A marijuana grower may sell or transfer marijuana product, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marijuana processor or marijuana retailer. A marijuana grower may sell or transfer marijuana products to a marijuana processor or marijuana retailer only after such products have been tested by a Commission-approved marijuana safety compliance facility, as defined in § 1004(x) of this ordinance. The licensee must be able to provide the Commission with proper verification that the testing procedure done on any product is in compliance with this ordinance and any rules or regulations promulgated by the Commission.

(d) A marijuana grower shall ensure that the handling of marijuana product that is to be sold or transferred to a marijuana retailer is done in compliance with this ordinance and any rules or regulations promulgated by the Commission.

(e) A marijuana grower may accept via sale or transfer marijuana seeds, tissues, cultures, and clones from any other source upon approval by the Commission. A marijuana grower may sell or transfer marijuana seeds, tissues, cultures and clones to another marijuana grower when done in compliance with any rules or regulations promulgated by the Commission.

(f) A marijuana grower may receive compensation for all goods or services authorized under this ordinance.

(g) A marijuana grower must enter all transactions, current inventory, and other information into the tracking system described in § 1039 of this ordinance.

(h) A marijuana grower must comply with the marijuana transportation requirements set forth in § 1049 of this ordinance.

§ 1029. Marijuana Processor License. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana processor may receive or purchase marijuana from marijuana growers or marijuana processors and sell or transfer marijuana and marijuana products to marijuana retailers or marijuana processors.

(b) A marijuana processor may possess, process, package and store marijuana and marijuana products acquired from a marijuana grower or marijuana processor.

(c) A marijuana processor shall ensure that the handling of marijuana product that is to be sold or transferred to a marijuana retailer is done in compliance with this ordinance and any rules or regulations promulgated by the Commission.

(d) A marijuana processor must enter all transactions, current inventory, and other information into the monitoring system described in § 1039.

(e) A marijuana processor must comply with the marijuana transportation requirements set forth in § 1049.

(f) A marijuana processor may receive compensation for all goods or services authorized under this ordinance.

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§ 1030. Marijuana Retailer License. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana retailer license authorizes the purchase or transfer of marijuana only from a marijuana grower, marijuana processor, or marijuana retailer, and sale only to marijuana retailers and individuals 21 years of age or older.

(b) A marijuana retailer must enter all transactions, current inventory, and other information into the tracking system described in § 1039 of this ordinance.

(c) A marijuana retailer must comply with the marijuana transportation requirements set forth in § 1049 of this ordinance.

(d) Before selling or transferring marijuana to an individual 21 years of age or older, a Marijuana retailer shall verify the individual's age by means of a valid government-issued photographic identification card or passport containing a date of birth.

(e) Before selling or transferring marijuana to an individual 21 years of age or older, the Marijuana retailer must ensure that the amount of the sale or transfer does not exceed the single transaction limit set forth in § 1052(d) of this ordinance.

(f) A marijuana retailer shall ensure that the handling of marijuana product is done in compliance with this ordinance and any rules or regulations promulgated by the Commission.

(g) A marijuana retailer may receive compensation for all goods or services authorized under this ordinance.

§ 1031. License Term and Substance. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) All marijuana licenses shall be valid for one year from the date of issuance. Nothing in this ordinance shall create a property interest in a marijuana license.

(b) A licensee must comply with all reporting, recordkeeping, tracking, and auditing requirements established by this ordinance, Commission rules and regulations, and applicable Tribal law.

(c) The marijuana establishment of a licensee must be at a fixed location. Mobile marijuana establishments and drive through operations are prohibited. Any sales or transfers of marijuana product by internet or mail order, or consignment are prohibited.

(d) A licensee may not cultivate, process, store, or sell marijuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area as prescribed by Commission rules and regulations.

(e) A licensee may not sell or otherwise transfer to any person or entity, marijuana that was not cultivated, produced, distributed, and/or taxed in compliance with this ordinance.

(f) A licensee or any agent acting on behalf of the licensee may not transport more than 15 ounces of

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marijuana or more than 60 grams of marijuana concentrate at one time.

(g) A licensee shall secure every entrance to the marijuana establishment so that access to areas containing marijuana is restricted to employees and other persons expressly provided access by the licensee. All agents of the Commission, Tribal law enforcement officers, and emergency personnel shall have permission to access the entire marijuana establishment while in performance of official business.

(h) A licensee shall secure all inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana product, and marijuana accessories.

§ 1032. Procedure for Suspension or Revocation of License. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission may suspend or revoke a license, after following the protocol set form in Subsection (b), for any of the following reasons:

(1) The licensee withheld pertinent information on the application;

(2) The licensee made false statements on the application;

(3) The licensee participated in a marijuana related activity that was not authorized by this ordinance or other applicable law;

(4) The licensee participated in a marijuana related activity that was outside of the scope of the activities authorized by his or her marijuana license;

(5) The licensee attempted to bribe a Tribal Council member, EDC member, the Executive Director, or other person, in an attempt to avoid or circumvent Tribal law or other applicable law;

(6) The licensee is knowingly involved in the falsification of books or records which relate to a marijuana operation;

(7) The licensee violated this ordinance or the rules and regulations of the Commission;

(8) The licensee has been convicted or has entered a plea of nolo contendere to any felony involving a controlled substance, fraud, theft, or embezzlement; and

(9) The licensee has refused to comply with any lawful order, inquiry, or directive of the Commission, the Tribal-EDC, Tribal law enforcement, or other tribal, state, or federal government commission or official.

(b) Upon reasonable cause that any of the events in Subsection (a) occurred, the Executive Director shall serve the licensee with an order to show cause as to why the licensee's license should not be suspended or revoked. The Commission shall afford any such identified licensee the following process:

(1) The licensee shall have an opportunity to request a meeting with the Executive Director to present his or her case.

(2) The meeting shall be set for not less than five business days or more than 10 business days from

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the date of the notice.

(3) All decisions made by the Executive Director at the conclusion of this meeting shall be final.

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PART 7
Marijuana Establishments; General Requirements

§ 1033. Marijuana Grower. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana grower may operate a marijuana establishment under either of the following conditions:

(1) The marijuana grower's entire operation is within a building that meets all security requirements established by the Commission under § 1045 of this ordinance, and passes the prelicensure inspection as required in § 1025 of this ordinance; or

(2) The majority of the marijuana grower's operations are within a building that meets all the requirements set forth in Subsection (a), except that cultivation may occur in an outdoor area, if all of the following conditions are met:

(A) The outdoor area containing the cultivation of marijuana plants is contiguous with the building, fully enclosed by fences or barriers that block outside visibility of the marijuana plants from the public view, with no marijuana plants growing above the fence or barrier that is visible to the public eye and the fences are secured and comply with the applicable security measures in this ordinance, including, but not limited to, locked entries only accessible to authorized persons or emergency personnel;

(B) After the marijuana is harvested, all drying, trimming, curing, or packaging of marijuana occurs inside the building meeting all the requirements under this ordinance; and

(C) The building meets the security requirements and passes the inspections required under this ordinance and all applicable Tribal laws, Tribal code, rules and regulations.

(b) If a marijuana grower's marijuana establishment does not meet either of the conditions set forth above, the marijuana grower shall be operating in violation of this ordinance.

(c) The Commission shall publish a list of approved chemical residue active ingredients for marijuana growers to use in the cultivation and production of marijuana plants and marijuana products to be sold or transferred in accordance with this ordinance.

§ 1034. Marijuana Retailer. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana retailer shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marijuana product as provided in this ordinance. The marijuana retailer shall keep marijuana products behind a counter or other barrier to ensure that a customer does not have direct access to the marijuana products.

(b) A marijuana retailer shall not allow onsite, or as part of the marijuana establishment, any of the following:

(1) Sale, consumption, or serving of food or alcohol; or

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(2) Consumption, use, or inhalation of a marijuana product.

§ 1035. Marijuana Establishments Generally. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana establishment shall ensure that the handling of marijuana product is done in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, as determined by this ordinance or otherwise determined by the Commission.

(b) Marijuana establishments shall not allow onsite or as part of the marijuana establishment any of the following:

(1) Sale, consumption, or serving of food or alcohol; or

(2) Consumption, use, or inhalation of a marijuana product.

(c) Access to the marijuana establishment's restricted and limited access areas is restricted to the licensee; employees of the licensee, escorted visitors, the Commission, Tribal Law Enforcement; or any other Tribal Official acting within his or her authority.

(d) Licensee records must be maintained and made available to the Commission upon request.

(e) The licensee's marijuana license(s) for the marijuana establishment as provided under the Ordinance must be framed under a transparent material and prominently displayed in the marijuana establishment.

§ 1036. Operations at the Same Location. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A licensee that has any combination of marijuana licenses may operate separate marijuana establishments at the same location. For a licensee to operate a combination of marijuana licenses at the same marijuana establishment, all of the following requirements must be met:

(1) The Commission has authorized the proposed operation of all licenses to be used at the same location.

(2) The operation is not in violation of any Tribal code provision or regulation.

(3) The licensee has done all of the following:

(A) Apply for and be granted each applicable marijuana license and pay the required fees for each marijuana license;

(B) Have distinct and identifiable areas with designated structures that are contiguous and specific to each marijuana license;

(C) Have separate entrances and exits, inventory, record keeping, and point of sale operations;

(D) Post the marijuana license on the wall in its distinct area and as provided in this ordinance;

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(E) Obtain any additional inspections and permits required by Tribal Council or any Tribal government agency or officer; and

(F) Comply with the provisions in this ordinance.

(b) A marijuana establishment shall have distinct and identifiable areas with designated structures that are specific to each marijuana license operating at the marijuana establishment.

(c) A marijuana establishment shall have separate entrances and exits, inventory, record keeping, and point of sale operations, for each marijuana license operating at the marijuana establishment.

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PART 8
Reporting

§ 1037. Required Reporting. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A licensee must inform the Commission of any change in the information provided by the licensee on the marijuana license application within 10 days of such change. If the Commission determines that a change is material to the marijuana license application, the Commission may require the licensee submit a new marijuana license application. Material changes in the application include, but are not limited to, change in location for the marijuana establishment and change in ownership of the marijuana establishment.

(b) An applicant or licensee shall notify the Commission within 1 business day of becoming aware of all of the following:

(1) Adverse reactions to a marijuana product sold or transferred by any licensee;

(2) Criminal convictions, charges, or civil judgments against an applicant or licensee in any tribal, state, federal, or foreign jurisdiction; and

(3) Regulatory disciplinary action taken or determined against an applicant or licensee by any tribal, state, federal, or foreign jurisdiction, including any pending action.

(c) An applicant or licensee shall notify the Commission within 10 calendar days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involves the applicant or the licensee.

(d) Licensees shall notify the Commission and Tribal law enforcement authorities within 24 hours of becoming aware of the theft or loss of any marijuana or marijuana product or other criminal activity at the marijuana establishment or that occurred during the physical transfer of any marijuana product.

(e) Failure to provide notifications or reports to the Commission pursuant to this chapter may result in sanctions, loss of licensure, fines, or other disciplinary action determined to be appropriate by the Commission.

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PART 9
Record Keeping, Tracking and Investigation

§ 1038. Bank Account, Record Keeping and Audit Requirements. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Band or Tribal entity engaged in marijuana operations shall maintain a separate bank account or accounts for that purpose. All expenses related to the marijuana operation taking place within the Band's jurisdiction shall be paid from the accounts, and all receipts of the marijuana operation taking place on within the Band's jurisdiction shall be deposited in the accounts, and such funds shall not be commingled with other Tribal funds or economic development funds until such time as such funds are distributed to the Band or another entity of the Band.

(b) A licensee shall keep accounting records of all marijuana-related projects on a double entry system of accounting, maintaining detailed supporting and subsidiary records. Marijuana-related projects shall maintain the following records for not less than five years:

(1) Revenues, expenses, assets, liabilities and equity for the Marijuana project.

(2) Contracts, receipts, and other transaction documents relating to the Marijuana project.

(c) The licensee shall maintain a complete list of all employees of the licensee to be made available to the Commission at any time.

(d) A licensee shall provide the Commission with a copy of an annual independent audit, and a quarterly profit/loss statement in accordance with generally accepted accounting principles. The Commission retains the authority to order an audit of a marijuana-related project at any time at its own cost.

§ 1039. Tracking System. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A licensee shall adopt and use a third-party inventory control and tracking system that has been approved by the Commission. The Commission shall publish and maintain a list of third-party inventory control and tracking systems that are approved by the Commission. Any third-party inventory control and tracking system approved by the Commission for use by licensee must, at a minimum, have all of the following capabilities:

(1) Tracking all marijuana plants, products, packages, purchase totals, waste, transfers, conversions, sales, and returns.

(2) Tracking lot and batch information throughout the entire chain of custody consistent with recognized commercial practices.

(3) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(4) Tracking marijuana plant, batch, and product destruction.

(5) Tracking transportation of product.

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(6) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(A) Sold product.

(B) Product inventory that is finished and available for sale.

(C) Product that is in the process of transfer.

(D) Product being processed into another form.

(E) Post-harvest raw product, such as product that is in the drying, trimming, or curing process.

(7) Reporting and tracking loss, theft, or diversion of product containing marijuana.

(8) Reporting and tracking all inventory discrepancies.

(9) Reporting and tracking adverse customer responses or dose-related efficacy issues.

(10) Reporting and tracking all sales and refunds.

(11) Electronically receiving and transmitting information as required by this ordinance or by Commission issued rules or regulations.

(12) Receiving testing results electronically from a marijuana safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(13) Identifying test results that may have been altered.

(14) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marijuana transactions authorized under the licensee's marijuana license in accordance with this ordinance.

(15) Providing information to cross-check that product sales are made to an individual 21 years of age or older and that the product received the required testing.

(16) Providing the Commission and other Tribal government agencies with access to information in the database that they are authorized to access.

(17) Providing tribal law enforcement with access to only the information in the database that is necessary to enforce this ordinance.

(18) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a marijuana license issued under this ordinance.

(19) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the information by the licensee or under this ordinance.

(20) Providing analytics to the Commission regarding key performance indicators such as the following:

(A) Total daily sales;

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(B) Total marijuana plants in production; and

(C) Total marijuana plants destroyed.

(b) The licensee shall provide the Commission with a quarterly report of the licensee's inventory that contains all information requested by the Commission.

(c) The Commission may request the licensee to share any of the information maintained in the tracking system with the Commission at any time.

(d) Marijuana products not identified and recorded in the tracking system pursuant to this ordinance must not be at a marijuana establishment. A licensee shall not transfer or sell a marijuana product that is not identified in the tracking system as required by this ordinance.

(e) Any marijuana product without a batch number or identification tag or label pursuant to this ordinance must not be at a marijuana establishment. A licensee shall immediately tag, identify, or record in the § 1039 tracking system any marijuana or marijuana product that is cultivated or otherwise obtained by the licensee in compliance with this ordinance.

(f) A violation of this ordinance may result in sanctions or fines, or both, in accordance with this ordinance or any rules or regulations promulgated by the Commission.

§ 1040. Inspection; Investigation. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission shall do all of the following with respect to inspections and investigations of licensees, proposed marijuana establishments, and marijuana establishments:

(1) Oversee and conduct inspections of proposed marijuana establishments and marijuana establishments to ensure compliance with this ordinance, Commission rules and regulations, and Tribal law;

(2) Inspect, examine, and audit records of the licensee and the marijuana establishment, including all employment records, to ensure compliance with this ordinance, Commission rules and regulations, and Tribal law; and

(3) Oversee and conduct all investigations of alleged violations of this ordinance, Commission rules and regulations, and Tribal law.

(b) The Commission may inspect, examine, and audit relevant records of the licensee. If a licensee fails to cooperate with an investigation, the Commission may impound, seize, assume physical control of, or summarily remove records from a proposed marijuana establishment or marijuana establishment as authorized under this ordinance.

(c) The Commission may take any reasonable or appropriate action to enforce this ordinance and related regulations or tribal code provisions as applicable.

(d) A licensee may not refuse the Commission access to the marijuana establishment during the hours of operation. The Commission may access the marijuana establishment without a warrant and without notice to the licensee during the marijuana establishment's hours of operation.

(e) No marijuana establishment may refuse representatives of the Commission the right during the hours

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of operation to inspect the licensed premises or to audit the books and records of the marijuana establishment.

(f) The Commission may place an administrative hold on marijuana products and order that no sales or transfers occur during an investigation for an alleged violation or violation of this ordinance.

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PART 10
Sampling; Testing; Packaging

§ 1041. Batch Sampling Procedures. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana grower shall uniquely identify each immature plant batch in the tracking system described in § 1039 of this ordinance. Each immature plant batch must not consist of more than 100 immature plants.

(b) A marijuana grower shall tag each plant that is greater than eight inches in height from the growing or cultivating medium or more than eight inches in width with an individual plant tag and record the identification information in the tracking system described in § 1039 of this ordinance.

(c) A marijuana grower shall delineate or separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the growth span so that all plants can be easily identified and inspected pursuant to this ordinance. A marijuana grower shall ensure that identification information is recorded in accordance with this ordinance in the tracking system described in § 1039 of this ordinance.

(d) After a tagged plant is harvested, the entire group of plants harvested is a harvest batch. A sample of each harvest batch must be tested by a Commission-approved marijuana safety compliance facility using sampling and testing methods set forth in § 1042 and § 1043.

(e) A marijuana grower shall quarantine a harvest batch from other plants or batches that have test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages.

(f) Before any plant material from a harvest batch is transferred or sold to a marijuana processor or marijuana retailer, except as provided in Subsection (h) of this section, a sample of the harvest batch must be tested by a Commission-approved marijuana safety compliance facility using sampling and testing methods set forth by § 1042 and § 1043 of this ordinance.

(g) All test results must indicate "passed" in the tracking system described in § 1039 of this ordinance before the plant material can be transferred or sold to a marijuana processor or marijuana retailer, except as provided in Subsection (h) of this section. A marijuana grower must be able to provide proof of passing results to the Commission upon request.

(h) A marijuana grower establishment may transfer or sell marijuana to a marijuana processor without first being tested by a marijuana safety compliance facility in order to produce live resin. The maximum harvest batch size for the production of live resin must be 60 pounds. After the marijuana processor has produced live resin, the marijuana processor shall have the sample tested pursuant to § 1043.

(i) After test results show a passed test and the harvest batch is packaged, the marijuana grower shall destroy the individual plant tags. Each package must have a package tag attached. A marijuana grower shall ensure this information is placed in the tracking system described in § 1039.

(j) A marijuana grower shall not transfer or sell any marijuana product that has not been packaged with a package tag attached and recorded in the tracking system described in section § 1039, except as

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provided in Subsection (h) of this Section.

§ 1042. Sampling. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A recognized and accredited marijuana safety compliance facility shall sample and test marijuana and marijuana product as provided in this ordinance.

(b) The Commission shall produce and publish sampling requirements for all marijuana and marijuana products. A licensee shall ensure that all marijuana and marijuana products are sampled in accordance with the Commission's sampling requirements.

(c) If a testing sample is collected from a marijuana establishment for testing, that marijuana establishment shall quarantine the marijuana product that is undergoing the testing from any other marijuana product at the marijuana establishment. The quarantined marijuana product must not be transferred or sold until testing results pass as provided under this ordinance and the results are recorded in the tracking system described in § 1039.

(d) Any marijuana product that a marijuana safety compliance facility collects for testing from a licensee under this ordinance must not be transferred or sold to any other marijuana establishment other than the licensee from whom the sample was collected.

(e) A marijuana safety compliance facility may request additional sample material from the same licensee from which the sample was collected for the purposes of completing the required safety tests as long as the requirements of this ordinance and the Commission are met.

§ 1043. Testing. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) All marijuana and marijuana products produced under this ordinance must be tested at a recognized and accredited marijuana safety compliance facility. The Commission shall publish a list of approved marijuana safety compliance facilities that are acceptable for use under this ordinance and update this list as appropriate. All acceptable marijuana safety compliance facilities shall use the same testing procedures with the same number of replicate analyses, standards, testing analysts, and equipment. A licensee shall not use a marijuana safety compliance facility that is not approved by the Commission.

(b) The Commission shall produce and publish safety requirements for all marijuana and marijuana products, which shall be updated periodically by the Commission. A licensee shall ensure that all testing of marijuana and marijuana products done by a marijuana safety compliance facility clearly shows that the tested product meets all current Commission safety requirements.

(c) A marijuana safety compliance facility must meet all the following requirements:

(1) Be fully accredited to the International Organization for Standardization (ISO), ISO/IEC 17025:2017 by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the agency within one year after the date the marijuana safety compliance facility license is issued and agree to have the inspections and reports of the International Organization for Standardization made available to the agency.

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(2) Maintain internal standard operating procedures that conforms to ISO/IEC 17025:2017 standards.

(3) Maintain a quality control and quality assurance program that conforms to ISO/IEC 17025:2017 standards.

(4) Use analytical testing methodologies for the required safety tests that are approved and confirmed by the Commission to produce scientifically accurate results for each safety test it conducts.

(d) A marijuana safety compliance facility shall conduct the required safety tests specified in Subsections (a) to (g) of this subsection on all marijuana product that is part of the harvest batch as specified in § 1041 of this ordinance. After the testing of the harvest batch is completed, the Commission may publish a guide indicating which of the following safety tests are required based on product type when the marijuana product has changed form:

(1) Potency analysis performed just as the marijuana product is without any corrective factor taken for moisture content that includes concentrations of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinol acid (THC-A).

(C) Cannabidiol (CBD).

(D) Cannabidiol acid (CBD-A).

(2) Foreign matter inspection.

(3) Microbial screening.

(4) Chemical residue testing that includes all of the following:

(A) Pesticides.

(B) Fungicides.

(C) Insecticides.

(5) Heavy metals testing as required in this ordinance.

(6) Residual solvents. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(7) Water activity including moisture content.

(e) A marijuana safety compliance facility shall conduct residual solvent testing on batches of marijuana concentrates and marijuana-infused products. The Commission shall publish a list of required residual solvents to be tested for and their action limits.

(f) For the purposes of calculating potency of total THC and total CBD, the following calculations must be used:

(1) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THC-A: M total delta-9 THC = M delta-9 THC + 0.877 x M delta-9 THC-A.

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(2) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBD-A: M total CBD = M CBD + 0.877 x M CBD-A.

(3) For marijuana and concentrates total THC and total CBD must be reported in percentages.

(4) For marijuana infused products total THC and total CBD should be reported in milligrams per grams (mg/g).

(g) Except as otherwise provided in § 1048, if a sample collected pursuant to § 1042 or provided to a marijuana safety compliance facility pursuant to this ordinance does not pass the required safety tests, the marijuana establishment that provided the sample shall dispose of the entire batch from which the sample was taken and document the disposal of the sample using the tracking system described in § 1039 of this ordinance.

(h) A marijuana safety compliance facility shall destroy any marijuana samples held for 30 days after test completion and dispose of the resulting waste in accordance with § 1046.

(i) For the purposes of the microbial screening and foreign matter inspection, the Commission shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.

(j) For the purposes of the heavy metal testing, the agency shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.

(k) For the purposes of the residual solvent test, the agency shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.

(l) For the purposes of the chemical residue test, the Commission shall publish a list of action limits. A marijuana sample that is at or below the action limit is considered to be a passing sample. A marijuana sample with a value that exceeds the action limit is considered to be a failed sample.

(m) A marijuana safety compliance facility shall not do any of the following:

(1) Desiccate samples unless performing moisture analysis on the sample.

(2) Dry label samples.

(3) Pre-test samples.

(n) If a sample provided to a marijuana safety compliance facility pursuant to this ordinance and § 1042 passes the safety tests required by this ordinance, the licensee shall ensure that all required information of passed test results is entered into the tracking system described in § 1039 of this ordinance within three business days of test completion. Passed test results must be in the tracking system for a batch to be released for processing, packaging, and labeling for transfer or sale in accordance with this ordinance.

(o) A marijuana safety compliance facility shall enter the results of the safety tests into the tracking system and described in § 1039 of this ordinance. The marijuana safety compliance facility shall notify the Commission of any failed safety compliance test results and shall provide the Commission with a copy of the failed safety test results upon request.

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(p) The Commission shall immediately remove any marijuana safety compliance facility that fails to comply with the provisions of this ordinance or falsifies records related to this ordinance, from the approved list and shall notify licensees of this change.

§ 1044. Packaging Process. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A Marijuana licensee shall give marijuana or marijuana product a new package tag and shall enter the package tag into the tracking system described in § 1039 of this ordinance anytime the marijuana product changes form or is incorporated into something else.

(b) Before a marijuana grower or marijuana processor packages any marijuana or marijuana product for retail sale, the marijuana grower or marijuana processor shall have the sample tested pursuant § 1043. A marijuana processor or marijuana grower shall not transfer or sell any final package to a marijuana retailer until the marijuana processor or marijuana grower receives passing test results for the product from the marijuana safety compliance facility and enters those results in the tracking system descried in § 1039 of this ordinance.

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PART 11
Operations

§ 1045. Security. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

The Commission shall produce and publish security requirements for all marijuana establishments. A licensee shall maintain a security system that meets all requirements established by the Commission.

§ 1046. Marijuana Product Destruction and Waste Management. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

The Commission shall produce and publish procedures and requirements for the destruction and disposal of marijuana and marijuana products. If a licensee must dispose of or destroy any marijuana or marijuana product, the licensee must ensure that such disposal meets all procedural and other requirements established by the Commission and is compliant with all applicable Tribal laws.

(a) A licensee shall not sell any marijuana or marijuana products that the Commission orders destroyed.

(b) A licensee shall maintain accurate and comprehensive records regarding marijuana and marijuana product waste that accounts for, reconciles, and evidences all waste activity related to the disposal. A licensee must record and account for all marijuana products disposed of under this section in the tracking system required by § 1039.

§ 1047. Storage of Marijuana Product. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) All inventories of marijuana products must be stored at a marijuana establishment in a secured limited access area or restricted access area and must be identified and tracked consistently in the tracking system required by § 1039.

(b) All containers used to store marijuana products for transfer or sale between marijuana establishments must be clearly marked, labeled, or tagged with all information required by the Commission, and must be enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in compliance with this ordinance.

(c) All chemicals or solvents must be stored separately from marijuana products and kept in locked storage areas.

(d) Marijuana-infused products, edible marijuana products, or materials used in direct contact with such marijuana-infused products or edible marijuana products, must have separate storage areas from toxic or flammable materials.

(e) All marijuana-infused products or edible marijuana products must be stored:

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(1) Under appropriate conditions of temperature, humidity, and light so that the identity, purity, strength, and composition of the components of the marijuana product are not affected;

(2) Under appropriate conditions so that the packaging and labels of the marijuana product are not affected;

(3) Under appropriate conditions that prevent the mix-up, contamination, or deterioration of components, marijuana products, or packaging and labels; and

(4) In compliance with any other requirements set by the Commission.

(f) A licensee shall store all marijuana products for transfer or sale behind a counter or other barrier, such counter or barrier must be separated from stock rooms or storage areas, such that customers cannot view the marijuana retailer's entire inventory without being escorted into stock rooms or storage areas by the licensee or an employee of the licensee.

§ 1048. Recall of Marijuana Product. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) To ensure the safety of all marijuana products sold, a licensee must notify the Commission of any health or safety issues related to any product sold by the licensee within one business day of receiving such information.

(b) The Commission may issue a recall for any marijuana product that presents a health or safety issues to consumers. The Commission shall notify all licensees of a recall and shall provide licensees with guidance on notifying customers and destroying recalled product.

§ 1049. Transportation of Marijuana. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) All marijuana or marijuana product transported between licensees or Marijuana Establishments on the Reservation must:

(1) Be carried out by current employees of the transferor licensee who have each been registered as a "transporter" with the Commission as described in § 1054 of this ordinance;

(2) Be carried out by a two-person transporter crew with at least 1 individual remaining with the vehicle at all times during the transportation of marijuana;

(3) Be transported in one or more locked, secured, and sealed containers and not be directly accessible by any individual in the vehicle while in transit;

(4) Be transported in a vehicle that is registered with the Commission as a marijuana transport vehicle;

(5) Be transported in a marijuana transport vehicle that does not bear markings or other indication that it is carrying marijuana or a marijuana-infused product; and

(6) Be transported with no unnecessary stops between the two establishments.

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(b) The licensee transferor shall enter all transactions, current inventory, and other information into the tracking system described in § 1039 of this ordinance prior to transporting any marijuana.

(c) An employee of the licensee transferee must enter all relevant information into the tracking system described in § 1039 of this ordinance within 12 hours of receipt.

(d) A licensee must keep detailed records of marijuana transportation between licensees and other Marijuana Establishments. These records must include:

(1) The exact contents of each transfer, including, but not limited to:

(A) The batch number, identification tag, or label as is used to identify the product in the tracking system described in § 1039 for all marijuana or marijuana product in the transfer;

(B) The total amount of the transfer; and

(C) Any other information specified by the Commission.

(2) The license information of the licensee transferor and licensee transferee;

(3) The address of the origin and destination of the transfer;

(4) The names and contact information of the registered transporters used to carry out the transfer; and

(5) The registered marijuana transport vehicle used to carry out the transfer.

(e) Subject to jurisdictional limitations, a marijuana transport vehicle is subject to administrative inspection by a Tribal Law Enforcement Officer at any point during the transfer to determine compliance with this ordinance.

(f) Transporters shall remain onsite until the marijuana product is weighed and accepted or rejected before leaving the marijuana establishment.

(g) All licensees shall identify and register as "marijuana transport vehicles," all vehicles to be used to transport marijuana with the Commission. When registering a marijuana transport vehicle with the Commission, the licensee shall provide the Commission with, at a minimum, the make, model, year, color, registration information and license plate number of each vehicle. The Commission may require additional information, as the Commission deems appropriate.

(h) Transporters shall log and track all handling of money associated with the purchase or sale of marijuana between marijuana establishments. These records must be maintained and made available to the agency upon request.

(i) The transfer of trade samples does not require the use of a marijuana secure transporter provided the amount of trade samples does not exceed either:

(1) 15 ounces of marijuana.

(2) 60 grams of marijuana concentrate.

(j) A marijuana establishment may transfer marijuana or marijuana product without following the requirements of this section if both of the following are met:

(1) The marijuana establishment that is to receive the transported product occupies the same

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location as the marijuana establishment transferring the transported product and the marijuana or marijuana product is transferred using only private real property; and

(2) The marijuana establishment transferring the product enters each transfer into the tracking system described in § 1039 of this ordinance.

(k) In cases of emergencies, the transporter shall notify the transferor and transferee as soon as is practicable. If any marijuana or marijuana product was stolen or otherwise taken from the transporter en route, the transporter shall update the tracking system described in § 1039 of this ordinance and notify the Commission as soon as is practicable.

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PART 12
Retail Sale of Marijuana Product

§ 1050. Retail Packaging Requirements. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) All marijuana product sold by a licensee at a Marijuana Retail establishment must, at a minimum, meet the following packaging requirements:

(1) The product must be in a sealed package;

(2) The product must be clearly labeled with the following information:

(A) The name and license number of the licensee;

(B) Net weight in United States customary and metric units;

(C) Concentration of THC and CBD;

(D) Activation time expressed in words or through a pictogram;

(E) Batch number, identification tag, or label as is used to identify the product in the tracking system described in § 1039 of this ordinance;

(F) Name of the marijuana safety compliance facility that performed any test, any associated test batch number, and any test analysis date. The universal symbol for marijuana product published as provided by the Commission; and

(G) Any other information required by the Commission.

(3) The product must be clearly labeled with a warning that states all the following:

(A) "For use by individuals 21 years of age or older only. Keep out of reach of children."

(B) "It is illegal to drive a motor vehicle while under the influence of marijuana."

(C) "National Poison Control Center 1-800-222-1222."

(b) All marijuana edible product packaging shall comply with the following:

(1) No edible marijuana product package can be in a shape or labeled in a manner that would appeal to minors aged 17 years or younger. No edible marijuana product can be associated with or have cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.

(2) No edible marijuana product can be easily confused with commercially sold candy. The use of the word candy or candies on the packaging or labeling is prohibited. No edible marijuana product can be in the distinct shape of a human, animal, or fruit or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marijuana products that are geometric shapes and simply fruit flavored are permissible.

(3) An edible marijuana product must be in opaque, child-resistant packages or containers that have a child-resistant effectiveness level of not less than 85% as determined by applicable consumer

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products safety standards.

(4) An edible marijuana product containing more than one serving must be in a resealable package or container that have a child-resistant effectiveness level of not less than 85% as determined by applicable consumer products safety standards.

(c) No marijuana processor may process, and no marijuana retailer may sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(d) No marijuana establishment may sell or otherwise transfer tobacco.

§ 1051. Maximum Concentration for Marijuana Infused Products. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

A licensee shall not sell or transfer products that exceed the maximum THC concentration level established by the Commission. The Commission shall publish a list of maximum THC concentration and serving size limits for all marijuana products.

§ 1052. Sale of Marijuana Product. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A marijuana retailer may sell or transfer a marijuana product to an individual 21 years of age or older if all of the following are met:

(1) The licensee confirms that the customer presented his or her valid driver's license or government-issued identification card that bears a photographic image and he or she is 21 years of age or older.

(2) The licensee determines, if completed, any transfer or sale will not exceed the purchasing limit prescribed in Subsection (d) of this section.

(3) The marijuana product to be sold or transferred under this ordinance has been tested, labeled, and packaged in accordance with this ordinance.

(b) A licensee shall enter all transactions, current inventory, and other information required by this ordinance in the tracking system described in § 1039. The licensee shall maintain appropriate records of all sales or transfers under this ordinance and make them available to the Commission upon request.

(c) A licensee is not required to retain information from customers other than the following:

(1) Payment method;

(2) Amount of payment;

(3) Time of sale;

(4) Product quantity; and

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(5) Other product descriptions.

(d) A licensee must ensure that all sales and transfers to an individual 21 years of age or older do not exceed 2.5 ounces of marijuana or 15 grams of marijuana concentrate in a single transaction.

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PART 13
Employees

§ 1053. Employees. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A licensee shall comply with all of the following:

(1) Not allow a person under 21 years of age to volunteer or work for the licensee;

(2) Train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marijuana product information, dosage and purchasing limits if applicable, or educational materials. If applicable, the employee training manual shall include a responsible operations plan as specified in Subsection (a)(3);

(3) Keep a responsible operations plan which shall include a detailed explanation of how employees will monitor and prevent underage access to the establishment, the illegal sale or distribution of marijuana or marijuana products within the establishment, and any other potential criminal activity on the premises, as applicable;

(4) Establish point of sale or transfer procedures for employees. The point of sale or transfer procedures must include, but are not limited to, training in dosage, marijuana product information, health or educational materials, point of sale training, purchasing limits, CBD and THC information, serving size, and consumption information including any warnings; and

(5) A licensee shall ensure that employees handle marijuana product in compliance with the standards set by the Commission.

(b) Prior to beginning employment with the licensee an employee must:

(c) Complete a criminal and financial history report on the form provided by the Commission and submit the form to the Commission.

(d) Disclose any licenses or business interests relating to marijuana that the employee currently holds in any jurisdiction.

(e) Submit a sworn statement that the employee:

(1) Will submit to the jurisdiction of the Band and the Commission;

(2) Will abide by all applicable Tribal laws, regulations and policies;

(3) Does not currently, and shall not have any relationship with any individual involved in an illegal drug market;

(4) Consents to any criminal and financial background investigation conducted by the Commission under this ordinance;

(5) Consents to the Commission sharing the employee's information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this ordinance and the laws of other jurisdictions; and

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(6) Consents to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are required by law.

(f) Provide any additional information, disclosure, statement, attestation, or other form requested by the Commission.

(g) An employee shall not begin employment with the licensee until he or she submit all required materials to the Commission and receives approval by the Commission to begin employment.

§ 1054. Transporters. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) A licensee must register each employee that the licensee intends to authorize to transport marijuana or marijuana product as a "transporter" with the Commission.

(b) The licensee shall provide the following information for each transporter:

(1) Name;

(2) Date of birth;

(3) Copy of a state-issued driver's license; and

(4) Any other information required by the Commission.

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PART 14
Taxation

§ 1055. Taxation. [History: Tribal Resolution #21-29.3368, enacted by Tribal Council in Regular Session on September 9, 2021; as amended by Tribal Resolution #23-41.3523, enacted by Tribal Council in Regular Session on February 15, 2023; as amended by Tribal Resolution #23-41.3534, enacted by Tribal Council in Regular Session on March 15, 2023.]

(a) The Commission shall collect applicable taxes for all activities, entities, or licenses regulated by the Commission in compliance with this ordinance, the 2004 Tax Agreement and amendments thereto between the Band and the state, any other binding agreement between the state and the Band related to the growth, processing, sale, transport, or testing of marijuana products, or the GTBC.

(b) The Commission shall remit to the Band all sales or other taxes required by Tribal law or agreement between the state and Band to be shared with the State in accordance with the 2004 Tax Agreement or other agreement related to the growth, processing, sale, transport, or testing of marijuana products.

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GRAND TRAVERSE BAND CODE

Title 16

EDUCATION & CULTURE

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CHAPTER 1
Intent to Establish Tribal School; Financing

§ 101. Intent to Establish Tribal School; Financing. [History: Tribal Act #96-14.360, enacted by Tribal Council in special session on May 8, 1996.]

(a) The Tribe proposes to undertake the School described on Exhibit A attached hereto. The maximum principal amount of debt expected to be incurred for each element of the School is set forth opposite the description thereof on Exhibit A.

(b) The Tribe intends to reimburse itself for the payment of all or a portion of the costs of the School with proceeds of debt to be incurred by the Tribe.

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CHAPTER 2
GTB Tribal School Code

§ 201. Board of Education. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

A school board may be authorized by the Grand Traverse Band of Ottawa and Chippewa Indians (the "GTB") consistent with the terms and provisions of this Code.

(a) The GTB tribal school to be known as Waabno Gimaak is hereby chartered and authorized as an independent entity of the GTB with those powers expressly delegated by the GTB Tribal Council pursuant to the Tribal Council's legislative authority.

(b) The school board shall be a seven member board. The school board shall elect a treasurer and secretary by a majority vote, while the Tribal Councilor member of the board shall serve as chairperson. Each board member shall have one vote at regular and special meetings with the exception of the chairperson, who shall only vote to break a tie.

(c) Meetings shall be conducted in accord with Robert's Rules of Order as a guide.

(d) The GTB Tribal Council shall appoint the school board.

(e) Eligibility for appointment.

(1) All school board members must be Tribal members who reside within the six county service area of the Grand Traverse Band of Ottawa and Chippewa Indians, or parents of children enrolled in Waabno Gimaak.

(2) All school board members must be able to pass the character investigation pursuant to 25 U.S.C.A. § 3201 et seq.

(3) All Tribal members desiring appointment must present five letters of recommendation to the GTB Tribal Council from persons who are not within a first degree of blood relationship. Letters of recommendation from non-Tribal members are acceptable.

(f) The term of office for each school board member who is not an officer shall be two years. The term of office for officers shall be three years.

(g) Any school board member may be removed from office for just cause as determined by the Tribal Judiciary based on a referral by five school board members.

(h) In the event that a school board member resigns or is removed as a school board member or is otherwise unable to complete their term as a school board member the vacancy shall be filled by appointment by the GTB Tribal Council.

(i) The Waabno Gimaak shall adopt a set of Bylaws before May 1, 1997, consistent with this Code. Said Bylaws shall be ratified by the GTB Tribal Council.

§ 202. Related Federal Law. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) The GTB authorized school board shall, to the extent permitted by federal law, and to the extent necessary, comply with applicable federal law relating to Indian education. Such laws shall principally include, but are not limited to, the following:

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(1) United States Code Annotated.

(A) Contracts for education in public schools, see 25 U.S.C.A. § 455;

(B) Education of Indians, see 25 U.S.C.A. § 271 et seq.;

(C) Education programs of Bureau of Indian Affairs, see 25 U.S.C.A. § 2001 et seq.;

(D) Indian education programs, see 25 U.S.C.A. § 2601 et seq.;

(E) Indian higher education programs, see 25 U.S.C.A. § 3301 et seq.;

(F) Tribally controlled school grants, see 25 U.S.C.A. § 2501 et seq.;

(G) Vocational education, see 25 U.S.C.A. § 309 et seq.; and

(H) Indian child protection, see 25 U.S.C.A. § 3201.

(2) Code of Federal Regulations.

(A) Education contracts under Johnson-O'Malley Act, see 25 CFR 273.1;

(B) Higher education, administration of loans, grants and other assistance, see 25 CFR 40.1 et seq.;

(C) Indian education policies, see 25 CFR 32.1 et seq.;

(D) Indian school equalization program, see 25 CFR 39.1 et seq.;

(E) Minimum academic standards for education of Indian children, see 25 CFR 36.1 et seq.;

(F) Special education, see 25 CFR 45.1;

(G) Student records, maintenance and control, see 25 CFR 43.1 et seq.;

(H) Student rights and due process procedures, see 25 CFR 42.1 et seq.;

(I) Transfer of Indian education functions, see 25 CFR 33.1 et seq.; and

(J) Vocational training program for adult Indians, see 25 CFR 27.1 et seq.

§ 203. Related State of Michigan Law. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

The Revised School Code of the State of Michigan shall not apply to the GTB. However, to the extent the GTB Tribal Council, or any school board established pursuant to this Code, elects to seek "charter school status" under MCL 380.501 et seq., then to the extent that the application of Michigan law is necessary to comply with charter school status, the Tribal Council shall authorize the application of the relevant Michigan law under the Revised School Code of Michigan or other applicable public acts of the State of Michigan.

§ 204. Board of Education; Powers and Duties Generally. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) The business which the school board is authorized to perform shall be conducted as a public meeting.

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An act of the school board shall not be valid unless voted at a meeting by a majority vote of the members serving on the school board and a proper record made of the vote.

(b) The school board may hold closed sessions only for personnel or legal matters.

(c) A meeting at which all members are present and for which proper notice is given to the public shall be considered a legal meeting for the transaction of business.

(d) Public notice of the time, date and place of the meeting shall be given, consistent with the Tribal posting requirements established in Article III, Section 5, of the Tribal Constitution.

(e) The secretary of the school board shall sign minutes of each meeting. In the absence of a secretary the chair shall appoint a temporary secretary who shall sign the minutes.

(f) The school board shall maintain records of the proceedings of the school board, the amounts of the treasury, and the business of the school board in an orderly manner.

(g) The school board shall prepare and submit to the Tribal Council not later than September 1st of each year an annual education report. The annual education report shall include, but is not limited to, all of the following information for the school:

(1) The accreditation status of the school;

(2) The status of school improvement plans;

(3) A copy of the core academic curriculum and a description of its implementation;

(4) A report for the school of aggregate student achievement based upon the results of any locally-administered student competency tests;

(5) For the year in which the report is filed and the previous school year, the pupil retention rate;

(6) The number and percentage of parents, legal guardians, or persons in loco parentis with pupils enrolled in the school who participate in parent-teacher conferences for pupils;

(7) The annual financial data of the school; and

(8) The student-to-teacher ratios.

(h) The school board shall have power to establish educational policy for the benefit of all students who are enrolled in Waabno Gimaak only.

(i) The school board shall prepare a uniform system of records for the GTB tribal school and require written reports from the administrator on any educational subject of value to the GTB.

(j) The school board shall have general supervision over Waabno Gimaak-related facilities and shall promulgate policy for:

(1) The establishment of curriculum;

(2) Approval of requests for any educational, scientific research;

(3) The establishment of minimum criteria for passage to succeeding grades and graduation;

(4) The establishment of policy governing appropriate student conduct and disciplinary procedures;

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(5) The establishment of policy to license through certification any and all teachers and any alternative schools which service Indian children within the jurisdiction of the GTB;

(6) The preparation and authorization of educational grants and contracts;

(7) The employment and termination of employees or the regulation of the behavior of said employees through authorized personnel policies;

(8) The implementation of rules and regulations for any Waabno Gimaak education-related subject-matter statute; and

(9) Promulgation of any policy, rule or regulations consistent with their statutory authority.

§ 205. Employment of School Administrator; Other Personnel; Notification of Contract Non-Renewal; Meeting With Board. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) The school board shall employ a school administrator who shall meet guidelines established by the school board. Such guidelines shall include relevant academic degrees and experience consistent with sound administration of a school district.

(1) The school administrator will be under the direct supervision of the school board.

(2) Failure to adhere to school board directives or requests for information shall be prima facie grounds for termination or non-renewal of the school administrator's contract.

(3) The school board shall direct the school administrator to complete those tasks identified herein as the responsibility of the school board.

(4) It is recognized that the school board positions are not full-time positions and that the majority of the administrative work of the school board must be completed by the school administrators and his or her staff.

(b) The superintendent, principal, school administrator, assistant school administrator, and secretary of the school shall not be a member of the school board.

(1) Employment of an administrator shall be by written contract.

(2) The term of the administrator's contract shall be fixed by the school board, not to exceed two years.

(3) If written notice of the non-renewal of the contract is not given at least 30 days after the termination of the contract, the contract is renewed for an additional one-year period.

(c) The school board may employ assistant administrators, guidance directors, and other administrators.

(1) The employment shall be by written contract.

(2) The term of the employment contract shall be fixed by the school board, not to exceed one year.

(3) If written notice of non-renewal of the contract of a person described in this section is not given at least 30 days before the termination date of the contract, the contract is renewed for an additional year.

(4) A notification of non-renewal of the contract of a person described in this section shall only be

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given for a reason that is not arbitrary and capricious.

(A) The school board shall not issue a notice of non-renewal under this section unless the affected person has been provided with not less than 30 days' advance notice that the school board is considering the non-renewal together with a written statement of the reasons.

(B) After issuance of the written statement, but before the non-renewal statement is issued, the affected person shall be given the opportunity to meet with not less than a majority of the school board to discuss the reasons stated in the written statement.

(d) The school board shall develop appropriate procedures to review and terminate for cause all employees employed under § 205.

§ 206. Employment of Teachers, School Administrator, Substitute Teacher; Employment as Conditional Employee; Conditions; Voiding and Terminating Employment. [History: Tribal School Code, adopted by Tribal Council in Special Session on March 6, 1997; as amended by Tribal Council on September 23, 1997; as amended by Tribal Act #02-20.1115, enacted by Tribal Council on May 29, 2002.]

(a) All employment and volunteer positions are dependent on the prospective employee or volunteer applicants passing a criminal history check with the tribal, state and federal police.

(1) Within 30 days of receiving a request from the school administrator, the GTB Tribal Police shall complete a character investigation of the prospective employee consistent with 25 U.S.C.A. § 3207 or consistent, where applicable with the procedures identified at MCL 380.1230(a), with the Revised Schools Code of the State of Michigan.

(2) All applicants for positions, including volunteer positions, with the GTB tribal school shall be required to submit his or her fingerprints to the GTB Tribal Police for the purpose of the background character investigation.

(b) The results of a criminal records check under this section shall only be used for the purpose of evaluating an individual's qualifications for employment in the position for which he or she has applied. A member of the school board shall not disclose those results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment.

(c) The school board shall hire and contract with qualified teachers.

(1) Contracts with teachers shall be in writing and signed by a majority of the school board on behalf of the school board.

(2) The contract shall specify the wages agreed upon.

(3) The general Personnel Policies of the GTB shall not apply to the relationship between the school board and the employees.

(d) The school board shall develop additional policies on compensation, rights, privileges, leave, and other personnel matters consistent with applicable federal or state law.

(e) The school board shall develop an appropriate procedure to review and terminate for cause all contract or non-contract permanent or part-time positions.

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(f) The school board shall develop policies for compensation consistent with Indian education standards.

(g) No permanent or part-time positions shall be created without the express consent of the school board.

§ 207. Procurement of Supplies, Materials, Equipment; Written Policies; Competitive Bids. [History: Tribal School Code, adopted by Tribal Council in Special Session on March 6, 1997; as amended by Tribal Council on September 23, 1997.]

(a) The school board shall adopt written policies governing the procurement of supplies, materials and equipment.

(b) The school administrator shall not purchase an item or a group of items in a single transaction costing $5,000 or more unless competitive bids are obtained for those items and the purchase of those items is approved by the school board. The school administrator must follow the GTB Bidding Code [2 GTBC Chapter 2] in the absence of specific federal or state controlling law.

§ 208. School Buildings; Construction, Addition, Repair, or Renovation; Competitive Bids. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) Before commencing construction of a new school building, or addition to or repair or renovation of an existing school building, except repair in emergency situations, the school board shall obtain competitive bids on all the material and labor required for the complete construction of a proposed new building or addition to or repair or renovation of an existing school building.

(b) The school board or board of directors shall advertise for the bids required under subsection (a) above once each week for two successive weeks in a newspaper of general circulation in the area where the building or addition is to be constructed or where the repair or renovation of an existing building is to take place. The advertisement for bids shall do all of the following:

(1) Specify the date and time by which all bids must be received by the school board or board of directors;

(2) State that the school board or board of directors will not consider or accept a bid received by the school board or board of directors after the date and time specified for bid submission;

(3) Identify the time, date, and place of a public meeting at which the school board or board of directors or its designee will open and read aloud each bid received by the school board or board of directors by the date and time specified in subsection (b)(1) above.

(c) The school board or board of directors shall require each bidder for a contract under this section to file with the school board or board of directors security in an amount not less than 1/20 of the amount of the bid conditioned to secure the GTB tribal school from loss or damage by reason of the withdrawal of the bid or by the failure of the bidder to enter a contract for performance, if the bid is accepted by the school board or board of directors.

(d) The school board or board of directors shall not open, consider, or accept a bid that the school board or board of directors receives after the date and time specified for bid submission in the advertisement for bids described in subsection (b) above.

(e) This section does not apply to buildings, renovations, or repairs costing less than $5,000.

§ 209. Length of School Term; Determination; Minimum Number of Days and Hours; Increase in

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Number of Days and Hours Not Required. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

The school board shall determine the length of the school term.

§ 210. Accreditation. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) "Accredited" means certified by the state Board of Education as having met or exceeded state board-approved standards established for six areas of school operation: administration and school organization, curricula, staff, school plant and facilities, school and community relations, and school improvement plans and student performance. The building-level evaluation used in the accreditation process shall include, but is not limited to, school data collection, self-study, visitation and validation, determination of performance data to be used, and the development of a school improvement plan.

(b) The standards for accreditation or summary accreditation under this section shall include pupil performance on Michigan Education Assessment Program ("MEAP") tests as a criterion, but shall not be based solely on pupil performance on MEAP tests. The standards shall also include multiple year change in pupil performance on those tests as a criterion.

(c) If the GTB tribal school has been unaccredited for three consecutive years, it is subject to one or more of the following measures, as determined by the GTB Tribal Council:

(1) The GTB Tribal Council shall appoint an administrator of the GTB Tribal school until the school becomes accredited;

(2) The GTB Tribal school, with the approval of the GTB Tribal Council, shall align itself with an existing research-based school improvement model or establish an affiliation for providing assistance to the GTB Tribal school with a college or university located in this state; and/or

(3) The GTB Tribal school shall be closed.

§ 211. Core Academic Curriculum. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) In addition to the requirements for accreditation under § 210 above, the school board shall provide to all pupils attending the GTB tribal school a core academic curriculum.

(b) The school board shall establish a core academic curriculum for its pupils at the elementary, middle, and secondary school levels. The core academic curriculum shall define academic objectives to be achieved by all pupils and shall be based upon the GTB tribal school's educational mission, long-range pupil goals, and pupil performance objectives.

§ 212. Suspension or Expulsion of Pupils. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) The school board or another school official, if designated by the school board, may authorize or order the suspension of expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order.

(b) The parent or legal guardian of an individual expelled may petition the expelling school board for reinstatement of the individual to the GTB Tribal School.

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(1) Not later than 10 school days after receiving a petition for reinstatement under this subsection, the school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual.

(A) The committee shall consist of two school board members, one school administrator, one teacher, and one parent of a pupil in the GTB tribal school.

(B) During this time the administrator may prepare and submit, for consideration by the committee, information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(2) Not later than 10 school days after all members are appointed, the committee shall review the petition and any supporting information and information provided by the school and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(A) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(B) The extent to which reinstatement of the individual would create a risk of GTB Tribal school or individual liability for the school board or school personnel.

(C) The age and maturity of the individual.

(D) The individual's school record before the incident that caused the expulsion.

(E) The individual's attitude concerning the incident that caused the expulsion.

(F) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(G) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(3) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee the school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

§ 213. Corporal Punishment. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) "Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(b) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

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(c) A person employed by or engaged as a volunteer or contractor by the school board shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(d) A person employed by or engaged as a volunteer or contractor by the school board may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary as follows:

(1) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school functions within the school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts;

(2) For self-defense or the defense of another;

(3) To prevent a pupil from inflicting harm on himself or herself;

(4) To quell a disturbance that threatens physical injury to any person;

(5) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil; and

(6) To protect property.

(e) A person employed by or engaged as a volunteer or contractor by the school board who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting is not liable in a civil action for damages arising from the use of that physical force. An incident report shall be filed within two days of the incident with the school board.

(f) The school administrator shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

§ 214. Compulsory Attendance; Enrollment Dates; Exceptions. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) Every parent, guardian, or other person in this school having control and charge of a child from the age of six to the child's sixteenth birthday shall send that child to a school during the entire school year.

(b) The child's attendance shall be continuous and consecutive for the school year fixed by the school in which the child is enrolled.

§ 215. School Funding; General Appropriation; Annual Audit. [History: Tribal School Code, adopted by Tribal Council in special session on March 6, 1997, as amended by Tribal Council on September 23, 1997.]

(a) The GTB Tribal Administration Accounting Department shall retain financial responsibility for the general books of account for all Waabno Gimaak-related funds of the Waabno Gimaak school. The federal Office of Management and Budget (OMB) Guidelines A-102 and A-87 shall apply to school expenditures.

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(b) The GTB Tribal Council shall retain appropriation authority over all Waabno Gimaak-related funds. No later than February 1st of each fiscal year the school board shall forward to the Tribal Chair who shall forward to the Tribal OMB under the GTB Appropriations Act all appropriation requests for the succeeding school year and for the fiscal year.

(c) The GTB Tribal Council may implement further legislation or may authorize further loans to the school for capital improvements if such loans are recognized as "essential government functions" under the Tribal Tax Status Act by the U.S. Department of Treasury and the debt service revenue stream is recognized to be a federal revenue stream such as a BIA grant or federal or state related education payment.

(d) The Tribal Council may authorize, if necessary, a GTB property tax funding mechanism or a tuition based funding mechanism for the cost of operation of the school. All property taxes or tuition payments under this section must be approved by the registered voters of the Grand Traverse Band of Ottawa and Chippewa Indians.

(e) The school board shall recommend, and the Tribal Council shall authorize, an auditing firm to conduct an audit of the school's financial data on an annual basis. Said annual audit shall be submitted to the Tribal Council by May 1st of each fiscal year.

(f) Pursuant to the authority of the GTB Legislative Procedures Act, 1 GTBC § 108(a), the Tribal Council authorizes immediate implementation of this GTB Tribal School Code.

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Title 17

TRIBAL SERVICES

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CHAPTER 1
Burial Fund Code

§ 101. Short Title, Purposes and Definitions. [History: Tribal Act # 92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996, and by Special Session June 29, 2011.]

(a) Short title. This code shall be entitled "The Grand Traverse Band Burial Fund Code".

(b) Purpose. The Grand Traverse Band Burial Code shall provide assistance with funeral expenses at the time of death for all Tribal members.

(c) Definitions. As used in this code:

(1) (Reserved)

(2) "Child". Person between the ages of 1-12.

(3) "Enroll". To comply with all requirements for membership in the Grand Traverse Band and to be placed on the membership rolls.

(4) "Infant". Person between the age of birth-1 year.

(5) "Person". A human being.

(6) "Tribal Member". A person eligible for membership in the Grand Traverse Band of Ottawa and Chippewa Indians and who has been officially enrolled with the GTB's Membership Office and who has been placed on the Tribal rolls. Tribal member includes future members, membership by adoption and eligible infants as determined by the GTB Membership Office.

(7) "Eligible Person". A person eligible for membership in the Grand Traverse Band of Ottawa and Chippewa Indians who has completed all the requirements for enrollment or in the case of infants those who are eligible for membership as determined by the GTB Membership Office.

(8) "Expenses". Expenses are the actual expenses of the funeral, for example, the cost to the funeral home or the expenses in the manner of internment. It does not include any incidental expenses, for example, transportation costs, hotel costs, etc.

§ 102. Creation of Burial Fund. [History: Tribal Act # 92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act # 96-14.348, enacted by Tribal Council on April 16, 1996, and by Special Session June 29, 2011.]

There is hereby created a burial fund program to provide assistance with funeral expense at the time of death for Tribal members.

§ 103. (Reserved) [History: Tribal Act # 92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act # 96-14.348, enacted by Tribal Council on April 16, 1996. Repealed by Special Session June 29, 2011.]

§ 104. Persons Covered. [History: Tribal Act # 92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996, by Special Session June 29, 2011, and by Tribal Council motion on March 26, 2014]

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Authority of Grand Traverse Band, MI

(a) All persons covered must be Tribal members as defined in 101(c)(6).

(b) (Reserved)

(c) (Reserved)

(d) In the case of infants, parents shall have from birth to one year of age to obtain an Eligibility Statement. Parents shall obtain an Eligibility Statement from the GTB Membership Office.

(e) The Tribal member may make a designation regarding responsibility for all arrangements of the funeral/burial by filling out a Burial Benefit Form. If no designation is made then the family shall designate a family member payee. Monetary assistance will not be issued until the designated responsible family member is identified.

§ 105. Stillborn. [History: Tribal Act # 92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996, and by Special Session June 29, 2011.]

This burial fund program will cover the expenses incurred for the funeral up to $3,500. Expenses include the cost to the funeral home or the expense incurred in the manner of interment as defined in 101(c)(8).

§ 106. Payment of Benefits. [History: Tribal Act #92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996, and by Special Session June 29, 2011.]

(a) The benefit check shall be payable jointly to the person responsible for the funeral expenses and the funeral home or crematorium.

(b) The designated family member payee may request an advance up to $500 to assist the family with expenses for food, travel, lodging or miscellaneous expenses. This amount shall be deducted from the total burial fund amount.

(c) No more than $7,500 shall be paid for any Tribal member's burial/funeral expense.

§ 107. Schedule of Benefits. [History: Tribal Act #92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996, and by Special Session June 29, 2011.]

(a) Birth to 12 years: payments shall be $3,500.

(b) (Reserved)

(c) (Reserved)

(d) The schedule of benefits may be raised or lowered from time to time by Tribal Council resolution without the need of a formal amendment to this Burial Fund Code.

§ 108. (Reserved) [History: Tribal Act #92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16, 1996. Repealed by Special Session June 29, 2011.]

§ 109. Applications for Benefits. [History: Tribal Act #92-10.75, enacted by Tribal Council on September 15, 1992. As amended by Tribal Act #96-14.348, enacted by Tribal Council on April 16,

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1996, and by Special Session June 29, 2011.]

Applications for benefits shall be made through the GTB's Office of Management and Budget.

§ 110. Benefits Liability. [History: Enacted by Tribal Council in Special Session June 29, 2011.]

(a) The GTB assumes no liability for any costs related to a Tribal member's funeral or burial in excess of the benefits provided by this burial fund program.

(b) The GTB may, at its discretion, amend or terminate the burial fund program.

§ 111. Inconsistent Provisions. [History: Enacted by Tribal Council in Special Session June 29, 2011.]

(a) Any prior legislation or other GTB laws and policies that are inconsistent with the purpose and procedures established by this Code are hereby repealed to the extent of any such inconsistency.

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CHAPTER 2
Six County Service Area Guidelines

§ 201. Intent. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

(a) The general intent of this section is to require proof of residency only for those members seeking out health insurance or other tribal services in which eligibility is limited to those tribal members residing in the six county service area.

(b) It is not the intent of this ordinance to require tribal members already receiving services to submit proof of residency, unless action is brought under § 204 — Verification of Permanent Residence.

§ 202. Title, Purpose and Definitions. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

(a) Title. This section of the Code shall be entitled "The Grand Traverse Band Six County Service Area Guidelines."

(b) Purpose. This section of the Grand Traverse Band Code shall implement guidelines for governmental departments that provide health insurance or other services to tribal members as well as tribal members seeking services from the Grand Traverse Band.

§ 203. Proof of Residency Requirements. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

Upon receiving an application for services when those services are limited to GTB members residing in the six county service area, the Governmental Department shall require proof of residency to be submitted along with the application. The following is a list of documents tribal members are required to submit to verify eligibility to receive services:

(a) A copy of a valid driver's license with the physical address listed on the application and one of the following:

- A current utility bill;
- A current bill received on a monthly basis;
- Most recent year form W2;
- Most recent year Federal Income Tax Return;
- Michigan Voter's Registration Card;
- Current monthly bank statement.

Bills, statements and documents listed above must contain the resident tribal member's name, physical address. Utility bills, monthly bills and bank statements must be for the most recent billing cycle and no older than 30 days from the date of application for enrollment. (On-line statements or bills are not acceptable documentation for address verification.)

(b) Alternative Option #1

(1) A copy of your photo Tribal ID, and

(2) Two of the following:

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- A current utility bill;
- A current bill received on a monthly basis;
- Most recent year form W2;
- Most recent year Federal Income Tax Return;
- Michigan Voter's Registration Card;
- A current monthly bank statement.

(3) Bills, statements and documents listed above must contain the resident tribal member's name, physical address. Utility bills, monthly bills and bank statements must be for the most recent billing cycle and no older than 30 days from the date of application for enrollment. (On-line statements or bills are not acceptable documentation for address verification.)

(c) Alternative option #2

(1) A copy of your valid Driver's License, Michigan ID, or Photo Tribal ID, and

(2) Fill out an Affidavit for Certification of Residency for Co-habitants Resident Tribal Member. (Affidavits are available at each department.).

(d) Minors.

(1) Please turn in a copy of the minor's trust bank statement, a bill, or a copy of school records.

(2) Bills, statements and documents listed above must contain the resident tribal member's name, physical address, and be dated within one month prior to the enrollment date. (On-line statements or bills are not acceptable documentation for address verification.)

§ 204. Verification of Permanent Residence. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

Upon reasonable information, belief, notification or report that a tribal member who applied for insurance or other tribal services, or is already receiving those benefits, is not residing within the six county service area, the department manager or employee in charge of verifying the application for services or insurance may request additional and/or updated documents to verify permanent residence.

§ 205. Misrepresentation of Residence. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

(a) Application. In the event a tribal member misrepresents his/her permanent address in an application for health insurance or services, no benefits shall be awarded until the tribal member obtains a permanent residence in the six county service area and fulfills all eligibility requirements set forth in this section of the code and the program or department administering the insurance or service.

(b) Misrepresentation to Obtain Services.

(1) In the event a tribal member is discovered to have misrepresented his/her address to obtain insurance or other services meant only for the benefit of GTB members residing in the six county service area, the insurance and/or services shall be cancelled until such time as the tribal member obtains a permanent residence in the six county service and can meet the proof of residency requirements.

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(2) The department manager for the specific department from which the services were obtained shall notify the Tribal Manager and all other department managers by official memorandum of the discovery and establishment of non-residency.

(3) The Legal Department on behalf of the Grand Traverse Band shall initiate a civil suit in Tribal Court and establish with specificity that misrepresentation did occur. If so, the Legal Department will request attorney fees and costs and contract health/tribal services reimbursement from the person who perpetrated the misrepresentation for the costs of services obtained by the misrepresentation. In the event the Tribe has exhausted all reasonable avenues to collect on Court ordered fees, costs and/or reimbursement, and if no other avenues are available, as a last resort the Tribe shall intercept the per capita of the person found responsible for the misrepresentation consistent with the Revenue Allocation Ordinance at 18 GTBC § 1610, Tribal Court Orders.

§ 206. Membership Office. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

Proof of residency shall not be required to change a general mailing address at the Grand Traverse Band Membership Office. The Tribal Council recognizes the fact that for various reasons tribal members may require general mailings and per capita distribution checks to be mailed to an alternate address, such as that of a parent or guardian.

§ 207. Effective Date. [History: Tribal Act #08-26.1904, enacted by Tribal Council on March 18, 2009.]

(a) The effective date of Title 17 - Tribal Services; Chapter 2 - Six County Service Area Guidelines, shall be immediately following the approval of this ordinance by Tribal Council.

(b) The departments of the Tribe are directed to develop implementing procedures consistent with the terms of this Act.

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GAMING

Title 18

GAMING

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Chapter 1
Gaming Ordinance

§ 101. Findings; Purpose. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians finds that gaming activity within its jurisdiction is essential to promote tribal economic development, self-sufficiency, and sovereignty, and that gaming activity must be controlled and regulated by the Band in a manner consistent with its best interests and with applicable federal law.

(b) The Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians vests in the Tribal Council the power to enact ordinances. Accordingly, the Tribal Council enacts this Gaming Ordinance to promote tribal economic development, self-sufficiency and sovereignty; to protect the operation of gaming enterprises from organized crime and other corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operators and players.

§ 102. Applicability. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

Unless specifically indicated otherwise, all provisions of this ordinance apply to all gaming activity within the Band's Indian lands.

§ 103. Definitions. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

For purposes of this Title 18 and associated regulations, certain terms and phrases will have the definitions assigned in this section, unless context clearly requires otherwise. Use of the word "will" or "shall" is mandatory; use of the word "may" is permissive. Words in the singular, or gendered words, are meant to be read alternatively as plural or neutral.

(a) "Class I Gaming" means:

(1) Social games played solely for prizes of minimal value; or

(2) Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

(b) "Class II Gaming" means:

(1) Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:

(A) Play for prizes with cards bearing numbers or other designations;

(B) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and

(C) Win the game by being the first person to cover a designated pattern on such cards;

(2) Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;

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(3) Non-banking card games that:

(A) The law of the state of Michigan explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and

(B) Players play in conformity with state laws and regulations concerning hours, periods of operation and limitations on wagers and pot sizes;

(4) Card games played in the states of Michigan, North Dakota, South Dakota or Washington, if:

(A) A tribe actually operates the same card games as played on or before May 1, 1988, as determined by the NIGC Chair; and

(B) The pot and wager limits remain the same as on or before May 1, 1988, as determined by the NIGC Chair.

(c) "Class III Gaming" means all forms of gaming that are not Class I or Class II gaming, including, but not limited to:

(1) Any house banking game, including, but not limited to:

(A) Card games such as baccarat, chemin de fer, blackjack (21) and pai gow (if played as house banking games); and

(B) Casino games such as roulette, craps and keno;

(2) Any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any games of chance;

(3) Any sports betting and pari-mutuel wagering, including, but not limited to, wagering on horse racing, dog racing or jai alai; or

(4) Lotteries.

(d) "Commission" means the Gaming Commission established by Chapter 2 of this Title 18.

(e) "Facility License" means a license issued by the Band of each place, facility or location on its Indian lands where it elects to allow Class II or Class III gaming.

(f) "Gaming Commission" means the subordinate governmental organization established as the tribal regulatory authority of gaming activity in § 105 of this ordinance.

(g) "Gaming Operation" means the economic entity established by the Band to operate gaming activity, receive the revenues, issue the prizes and pay the expenses.

(h) "Indian Lands" means:

(1) Land within the limits of the Band's Indian reservation; or

(2) Land over which the Band exercises governmental power and that is either:

(A) Held in trust by the United States for the benefit of any Indian tribe or individual; or

(B) Held by an Indian tribe or an individual subject to restriction by the United States against alienation.

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(i) "Key Employee" means:

(1) A person who performs one or more of the following functions:

(A) Bingo caller;

(B) Counting room supervisor;

(C) Chief of security;

(D) Custodian of gaming supplies or cash;

(E) Floor manager;

(F) Pit boss;

(G) Dealer;

(H) Croupier;

(I) Approver of credit; or

(J) Custodian of gaming devices, including persons with access to cash and accounting records within such devices;

(2) If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year;

(3) If not otherwise included, the four most highly compensated individuals employed in the gaming operation; or

(4) Any other individual designated by the Band in writing as a key employee.

(j) "License" means the revocable permission granted by the Gaming Commission to an individual or an entity to operate in a specific kind of gaming activity or related activity.

(1) "Employee License" means a license issued to each primary management official or key employee who is employed by a gaming operation.

(2) "Facility License" means a license issued to each facility, location or place where Class II or Class III gaming is conducted within the Band's jurisdiction. A separate license must be obtained for each facility.

(3) (Reserved)

(4) "Vendor License" means a license issued to an individual or entity who provides goods or services to a gaming operation.

(k) "National Indian Gaming Commission (NIGC)" means the federal body established by 25 U.S.C. § 2704.

(l) "Net Revenue" means gross gaming revenues of a gaming operation less:

(1) Amounts paid out as, or paid for, prizes; and

(2) Total gaming-related operating expenses, including all those expenses of the gaming operation

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commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements.

(m) "Primary Management Official" means any person who has the authority to hire and fire employees; or to set up working policy for the gaming operation; or the chief financial officer or other person who has financial management responsibility, or any other person designated by the Band in writing as a primary management official.

(n) "Tribal-State Compact" means an agreement between the Band and the state about Class III gaming entered into under 25 U.S.C. § 2710(d).

§ 104. Gaming Authorized. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Class I gaming is authorized subject to the requirements of the Gaming Commission or its authorized agent.

(b) Class II is authorized on the Band's Indian lands, provided that such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations and any other applicable laws or regulations.

(c) Class III gaming is authorized on the Band's Indian lands, provided that such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, and the Tribal-State Compact.

§ 105. Ownership of Gaming; Regulatory Authority; Agent for Service. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Grand Traverse Band of Ottawa and Chippewa Indians shall have the sole proprietary interest in and responsibility for the conduct of any gaming authorized by this ordinance.

(b) The Gaming Commission is established as a subordinate governmental organization with primary regulatory authority over gaming activities, according to Chapter 2 of this Title 18.

(c) The Chair of the Gaming Commission shall be the designated agent for service of process for any official determination, order or notice of violation from the NIGC. Nothing about this provision waives the inherent sovereign immunity of the Band or the Gaming Commission against suit into any jurisdiction or venue.

§ 106. Use of Net Gaming Revenues. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

Use of net revenues from tribal gaming shall be regulated by the Revenue Allocation Ordinance found at 18 GTBC Chapter 16. Net revenues shall only be used for the following purposes:

(a) To fund the Band's government operations and programs;

(b) To provide for the general welfare of the Band and its members;

(c) To promote tribal economic development;

(d) To donate to charitable organizations; or

(e) To help fund operations of local non-tribal government agencies.

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§ 107. Audits. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Band will arrange for independent audits of gaming operations annually and must submit the results of those audits to the NIGC. Such audits must conform to generally accepted auditing standards.

(b) All gaming-related contracts resulting in the purchase of supplies, services or concessions for more than $25,000 in any year (except contracts for professional legal and/or accounting services) must be specifically included within the scope of the audit conducted under § 107(a) of this ordinance.

§ 108. Environment; Patron Dispute Resolution. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Each gaming facility shall be constructed, maintained and operated in a manner that adequately protects the environment and the health and safety of the public.

(b) Any dispute between GTB gaming enterprises and the gaming public which arises over the payment of winnings to a member of the gaming public will be resolved according to the following schedule:

(1) If the disputed win is less than $200, the department head, or designee, of that game will resolve the matter at the time of the dispute, and that resolution will be final.

(2) If the disputed win is $200 or more, but less than $1,000, the gaming manager will resolve the matter within eight hours, and that resolution will be final.

(3) If the disputed win is $1,000 or more, the Tribal Commission will resolve the matter within 30 days, and that resolution will be final.

(c) Nothing about this § 108 is to be construed as creating a cause of action against the Band, its enterprises, agents or employees, nor is it to be construed as waiving sovereign immunity into any venue or jurisdiction.

§ 109. Licenses. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Band must issue a separate facility license to each place, facility or location on Indian lands where Class II or Class III gaming is conducted under this ordinance.

(b) All primary management official and key employees of a gaming operation must have a valid employee gaming license as a condition of hire and continued employment in a licensed gaming facility.

§ 110. Application for Employee Gaming License. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Application forms for employee gaming licenses must bear the following notices when provided to an applicant:

(1) In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of an individual to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the

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National Indian Gaming Commission members and staff who have need for the information in performance of their official duties. The information may be disclosed by the Band or the NIGC to the appropriate federal, tribal, state, local or foreign law enforcement or regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or by the NIGC in connection with the issuance, denial or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Band being unable to license you for a primary management or key employee position. The disclosure of your social security number is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) A false statement on any part of your license application may be grounds for denying a license or for the suspension or revocation of a license after it has been issued. You may also be punished by fine or imprisonment pursuant to 18 U.S.C. § 1001.

(b) The application must gather, at a minimum, all of the following information:

(1) The full name of the applicant and any other names used, and his or her social security number, birth date, place of birth, citizenship, gender, driver's license number and all language spoken and/or written;

(2) Current business and employment positions, any ownership interest in those businesses, and the address(es) and telephone number(s) of the business, and all similar information for the five-year period prior to the date of application;

(3) Current residential address, and telephone number, including cellular telephone numbers, and each residential address, telephone number and/or cellular telephone number for the five-year period prior to the date of application;

(4) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in Subsection (b)(3) of this section;

(5) A description of any existing and previous business relationships with other tribes, including any ownership interests in the business(es);

(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the business(es);

(7) The name and address of any licensing or regulatory agency with which the applicant has applied for a license or permit related to gaming, whether or not such license or permit was granted;

(8) Whether the applicant has ever been convicted of a felony and, if so, the charge, the name and address of the court involved, and the date of disposition, if any, and also whether the applicant is subject to ongoing prosecution for a felony;

(9) Whether the applicant has been convicted of a misdemeanor (excluding minor traffic violations) within 10 years of the date of the application, and, if so, the charge, the name and address of the court involved and the date of disposition, if any, and also whether the applicant is subject to an ongoing prosecution for a misdemeanor;

(10) For any other criminal charge (excluding minor traffic charges), whether or not there is a

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conviction, if such criminal charge is within 10 years of the date of application and is not otherwise listed pursuant to Subsection (b)(8) or (b)(9) above, the charge, the name and address of the court involved and the date of disposition, if any.

(11) The name and address of any licensing or regulatory agency with which the applicant has applied for an occupational license or permit, whether or not such license or permit was granted;

(12) A current photograph;

(13) Fingerprints obtained in accordance with procedures adopted by the Band pursuant to 25 C.F.R. § 522.2(h); and

(14) Any other information the Band deems relevant.

(c) (Reserved)

(d) When a primary management official or key employee is employed by the Band, the complete application file, containing all of the information listed in § 110(b) above, must be maintained.

§ 111. Fingerprints. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The Band must request fingerprints from each applicant for a primary management official and key employee. Fingerprints are to be taken by the Grand Traverse Band Tribal Police. The Tribal Police will forward the fingerprints to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any.

§ 112. Background Investigations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Band must perform a background investigation for each person who applies for a gaming employee license. The investigation must be sufficient to allow the Gaming Commission to make an eligibility determination under § 113 of this ordinance.

(b) The Gaming Commission must create and maintain an investigative report for each applicant for an employee gaming license.

(c) Investigative reports shall include, at a minimum, all of the following information:

(1) Steps taken in conducting the investigation;

(2) Results obtained;

(3) Conclusions reached; and

(4) The basis for those conclusions.

§ 113. Eligibility Determinations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Before a license is issued to an applicant, an authorized tribal official must make a finding concerning the eligibility of that applicant to receive a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

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(b) If the authorized tribal official, in applying the standards adopted in this ordinance, determines that licensing an applicant poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she must not grant the applicant's application for a gaming employee license.

(c) Copies of eligibility determinations must be included with the notice of results that are to be submitted to the NIGC before a gaming employee license is granted to an applicant.

§ 114. Notice of Results of Background Investigations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Prior to issuing an employee gaming license, the Gaming Commission must prepare a notice of results of the applicant's background investigation. The notice of results must be submitted to the NIGC within 60 days of the date the applicant begins employment with the Band.

(b) The notice of results must include all of the following information:

(1) The applicant's name, date of birth and social security number, if one was provided;

(2) The date on which the applicant began, or intends to begin, working as a primary management official or key employee;

(3) A summary of the information presented in the investigative report, including:

(A) Licenses that have previously been denied;

(B) Gaming licenses that have been revoked, even if subsequently reinstated;

(C) Every known criminal charge brought against the applicant within the ten-year period prior to the date of the application;

(D) Every felony offense of which the applicant has been convicted or is subject to an ongoing prosecution; and

(4) A copy of the eligibility determination made in accordance with § 113 above.

§ 115. Granting Gaming Licenses. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) All primary management officials and key employees of a gaming operation must have a gaming license issued by the Band.

(b) The Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.

(c) The Gaming Commission may license a primary management official or key employee applicant after submitting the notice of results of the applicant's background investigation to the NIGC, as required by § 114.

(d) The Gaming Commission must notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.

(e) A gaming operation must not employ an individual as a primary management official or key

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employee if that individual does not have an employee gaming license within 90 days of beginning work at the gaming operation.

(f) The Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to the issuance of such license from the NIGC, if those objections are received within 30 days of the NIGC's receipt of the Commission's notice of results of the applicant's background investigation. The Commission must take the NIGC's objections into account when reconsidering a license application.

(g) The Gaming Commission must make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

(h) If the Gaming Commission issued a license to a primary management official or key employee prior to receiving the NIGC's statement of objections, notice and a hearing must be provided to the primary management official or key employee pursuant to § 117 below.

§ 116. Denying Gaming Licenses. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission must not license an applicant as a primary management official or key employee if an authorized tribal official determines, in applying the standards in § 113 for making a license eligibility determination, that licensing the person:

(1) Poses a threat to the public interest;

(2) Poses a threat to the effective regulation of gaming; or

(3) Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming;

(b) When the Gaming Commission denies a license to an applicant based on Subsection (a)(1)-(3) above, or revokes a previously issued license after reconsideration, it shall:

(1) Notify the NIGC; and

(2) Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

(c) The Gaming Commission must not issue a license to a person who has been convicted of, or entered a plea of guilty or no contest to, any gambling-related offense, or any felony with an element of theft, fraud, or misrepresentation, or to a misdemeanor or other charge with an element of theft, fraud, or misrepresentation that would be considered a felony under Michigan law, provided that the conviction is based upon a charge prosecuted against the applicant as an adult offense and that the offense has not been effectively removed from the applicant's record by executive pardon, state court order, or operation of law.

(d) The Gaming Commission must not issue a license to a person who has been convicted of any felony not described in Subsection (c) above, or of any misdemeanor within the prior five-year period, unless that person is a member of the Grand Traverse Band of Ottawa and Chippewa Indians and has obtained a certificate of rehabilitation.

(1) If a tribal member is ineligible for a gaming license under this Subsection (d), he or she may

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apply to the Gaming Commission for a certificate of rehabilitation.

(2) The Gaming Commission may issue a certificate of rehabilitation to the tribal member upon a showing that the tribal member is not likely again to engage in any offensive or criminal course of conduct, and that the public good does not require a denial of a license to him or her.

(e) The Gaming Commission may deny a license to an applicant if it determines that the applicant participated in organized crime or unlawful gambling, or whose prior activities, criminal record, reputation, habits and/or associations indicate good cause for disqualification under § 116(a), or indicate a threat to the conduct of gaming or the carrying on of business and financial arrangements incidental to the conduct of gaming.

§ 117. Gaming License Suspensions and Revocations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) If, after a license is issued to a primary management official or key employee, the Band receives notice from the NIGC that the primary management official or key employee is not eligible for licensure, the Gaming Commission shall do the following:

(1) Immediately suspend the license;

(2) Provide the licensee with written notice of the suspension and proposed revocation; and

(3) Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

(b) The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.

(c) Following a revocation hearing, the Gaming Commission must decide whether to revoke or reinstate the license at issue.

(d) The Gaming Commission must notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for licensure.

§ 118. Records Retention. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission must retain, for not less than three years from the date that a primary management official or key employee separates from employment with the Band, all of the following documentation:

(1) Applications for licensing and re-licensing;

(2) Investigative reports;

(3) Eligibility determinations; and

(4) All correspondence to and from the NIGC regarding the employee.

§ 119. Prohibited Acts Criminal Penalties. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

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(a) No person shall:

(1) Operate or in any way participate in any on-reservation Class II or Class III gaming activity not authorized according to this ordinance;

(2) Knowingly make a false statement in an application for a license;

(3) Knowingly make a false statement in connection with any contract to participate in gaming activity;

(4) Bribe or attempt to bribe any person participating in any gaming activity;

(5) Promote or participate in any illegal gaming activity;

(6) Fail to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity authorized pursuant to this code;

(7) Falsify any books or records which relate to any transaction connected with any gaming activity conducted under this code;

(8) Conduct or participate in any gaming activity which results in cheating or misrepresentation, or which allows any other disreputable tactics that detract from the fair nature and equal chance of participation among gaming players, or which otherwise creates an advantage to the actor or an associate of the actor an advantage over and above the regular chance of the game and which affects the outcome of the game;

(9) Employ or possess any cheating device or device used in a manner to facilitate cheating;

(10) Willfully use any fraudulent scheme or technique to change the odds of any game of chance, including, but not limited to, exercising the technique of "card counting";

(11) Conduct a gaming activity with, or to allow participation in any gaming activity by, a visibly intoxicated or disorderly player;

(12) Allow or participate in the sale of liquor or alcohol at gaming facilities in a manner prohibited by tribal law;

(13) Accept or offer consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity;

(14) Use bogus or counterfeit bills, chips, or tickets, or to substitute or use any cards, tickets, or equipment that has been marked or tampered with;

(15) Solicit, directly or indirectly, or use, or offer, furnish or provide inside information on the nature or status of any gaming activity for the benefit of any person;

(16) Tamper with a gaming device or manipulate the outcome or payoff of a gaming device, or otherwise interfere with the proper functioning of any machinery or equipment;

(17) Alter or counterfeit any type of gaming license, or fraudulently lend or use any type of gaming license;

(18) Operate, use or make available to the public any illegal gaming device, apparatus, material or equipment, or sell, hold out for sale or transport the same into or out of the Band's jurisdiction;

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(19) Possess any illegal narcotics or controlled substances at any licensed gaming facility;

(20) Assist a person who is less than 18 years of age to participate in any gaming activity;

(21) Steal, divert, convert or embezzle funds or other items of value from a gaming operation or from the Gaming Commission;

(22) Employ a person at a licensed gaming operation whom the gaming operator knows or has reason to know has been convicted of a gaming crime or a crime of fraud;

(23) To conspire with, aid, abet or induce another person to violate any provision of this code or any tribal or federal law;

(24) Fail or refuse to comply with any lawful order or decision of the Gaming Commission;

(25) Offer or accept a loan, financing or other thing of value between a Tribal Commission member or employee and any person participating in any gaming activity.

(26) Attempt to engage in any of the conduct prohibited by this Section § 119(a)(1) - 25 or to engage or attempt to engage in conduct which contravenes the provisions of this Chapter 1.

§ 120. Criminal Penalties. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) An Indian person convicted of engaging in the conduct prohibited by § 119(a) shall be guilty of a misdemeanor and subject to a maximum fine of $5,000 or imprisonment for up to one year;

(b) Each day or instance, as appropriate, of conduct under § 119(a) shall constitute a separate violation for purposes of criminal liability.

§ 121. Civil Penalties. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Any person who engages in the conduct prohibited by § 119(a) or in contravention of this Chapter 1 shall be liable to the Band for a civil fine not to exceed $5,000 for each violation. The amount of such civil fine may be recovered in a civil action in the Tribal Court. All civil fines accruing hereunder shall be cumulative, and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine or judgment, penalty, forfeiture, or damages, nor shall any such action bar the power of the Tribal Court to exercise its contempt powers, nor shall any such action operate as a bar to criminal prosecution.

(b) The civil fines imposed under this code are intended to be remedial and not punitive and are designed to compensate the Band for the damage done to the peace, security, economy and general welfare of the Band and its Indian lands, and to compensate the Band for costs incurred by enforcing this code.

(c) The civil fines under this code are also intended to coerce persons into complying with this code and Tribal Commission regulations and are not intended to punish such persons for violation of such laws and regulations.

(d) In enforcing the civil infraction provisions of this code, the Tribal Commission shall proceed, in the name of the Tribe, by civil complaint pursuant to the provisions of this code.

(e) The Tribal Commission in such action shall have the burden of showing, by a preponderance of the evidence, that such person violated the applicable provision of this code.

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§ 122. Referral to Tribal Prosecutor. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The Gaming Commission must refer allegations or suspicions of criminal conduct to the Tribal Prosecutor's Office. Official action by the Gaming Commission, including denial, suspension, or revocation of a gaming license, shall not foreclose criminal or civil prosecution for charges arising from the same set of circumstances or events.

§ 123. Seizure and Forfeiture of Property. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

All property used or gained in violation of this code shall be subject to seizure and forfeiture by order of the Tribal Court.

§ 124. Notice to Tribal Commission. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

Upon final order of the Tribal Court in any action for criminal or civil violation under this section, the Clerk of the Tribal Court must notify the Gaming Commission in writing of the final court disposition. Notice from the Tribal Court or any other court of a criminal conviction, plea of guilty or plea of nolo contendere may subject a licensee to a hearing.

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Chapter 2
Gaming Commission

§ 201. Findings; Purpose. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians finds that control and regulation of gaming activity is necessary to promote tribal economic development, self-sufficiency, and sovereignty; to protect the operation of gaming enterprises from organized crime and corrupting influences; and to ensure that gaming is conducted fairly and honestly by both operators and players. The Tribal Council finds that this duty is best conducted by a subordinate governmental organization permitted to exercise certain delegated executive and legislative powers.

(b) The purpose of this ordinance is to establish the Gaming Commission with certain delegated authorities, powers, and duties.

§ 202. Establishment; Immunity. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Grand Traverse Band Gaming Commission is established as a subordinate governmental organization pursuant to Article IV, Section 1(m) of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

(b) As a subordinate governmental organization, the Gaming Commission enjoys the same attributes of sovereignty as the Grand Traverse Band, including, but not limited to, sovereign immunity from suit and liability in any jurisdiction, court, or venue.

§ 203. Residency; Place of Business. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission is a resident of, and will maintain its principal place of business on, the Reservation of the Grand Traverse Band in Peshawbestown, Michigan.

(b) The Gaming Commission may conduct business under this ordinance at any location it deems to be in the best interests of the Band.

§ 204. Assets; Credit. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Assets.

(1) The Gaming Commission will have only those assets specifically assigned to it by the Tribal Council, or acquired in its name by the Tribal Council, or may acquire necessary assets on its own behalf.

(2) The property of the Gaming Commission is public property to be used for essential public and governmental purposes. The Gaming Commission and its property are exempt from all taxes and special assessments levied by the Tribal Council.

(3) Upon dissolution of the Gaming Commission, the title to any and all property then owned by it shall vest in and become property of the Band.

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(4) No activity of the Gaming Commission nor any indebtedness incurred by it shall implicate or in any way involve or affect the assets of the Band's members or the Band unless the assets were assigned in writing by Tribal Council resolution to the Gaming Commission.

(b) Nothing in this Gaming Code, nor in any activity of the Gaming Commission, in any way involves or implicates the credit of the Band or the Gaming Commission.

§ 205. Membership; Non-Voting Membership; Vacancies. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission is comprised of at least two, but no more than four, members appointed by the Tribal Council and one member elected by the membership of the Band. Commissioners will serve staggered terms of four years. There is no prohibition on successive terms of service.

(b) The Tribal Council may designate any person, including any member of the Tribal Council, to participate without vote on the Gaming Commission.

(c) If any commissioner dies, resigns, is removed or for any reason is otherwise unable or unwilling to serve as a commissioner, the Tribal Council must declare his or her position vacant and must appoint another person to fill the position for the remainder of the term. If the vacant position is the elected position, the Election Board must hold a Special Election to fill the remainder of the term consistent with its rules. If the Election Board does not hold a Special Election within a reasonable amount of time, Tribal Council must fill the vacancy by appointment for the remainder of the term.

§ 206. Qualifications for Membership; Length of Service. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) To be elected or appointed to the Gaming Commission, an individual must be an enrolled member of the Grand Traverse Band and at least 18 years of age.

(b) The Regulatory Department must conduct a comprehensive background investigation and credit check of each candidate or potential appointee. For each candidate or appointee, the Election Board or the Tribal Council, respectively, will determine whether the investigation reveals that the person's prior activities, criminal record (if any), or reputations, habits, or associations pose a threat to the public interest, or threaten the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair or illegal practices, methods, or activities in the conduct of gaming.

(c) A person must pass an independently administered alcohol and drug test substantially similar to the pre-employment test given to prospective tribal employees prior to being considered as an appointee or to be qualified as a candidate. Failure or refusal to submit to the test, or the presence of alcohol or illegal drugs at the time of testing, will disqualify the person from appointment or candidacy.

(d) A person is not eligible for election, appointment, or continued service on the Gaming Commission if:

(1) The person is simultaneously a Tribal Council Member, although this provision does not prevent non-voting participation under § 205(b) of this ordinance;

(2) The person was convicted of, or entered a plea of guilty or no-contest to, a felony, a gaming offense, or any misdemeanor which involved an element of dishonesty or moral turpitude;

(3) The person or any member of the person's immediate family has a financial interest in any gaming activity or facility, other than the receipt of a per capita benefit, or an immediate family

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member's employment in a gaming operation.

(4) The person is employed by any gaming operation.

§ 207. Removal. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Tribal Council may suspend or remove a commissioner for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for conduct which threatens the honesty and integrity of the Gaming Commission or gaming activity, or is found to be disqualified under § 206(d) of this ordinance, or otherwise violates the letter or intent of this Title 18.

(b) The Tribal Council may temporarily remove a commissioner to protect essential interests of the Band from immediate harm by delivering written notification of temporary removal. The notice must state the basis for the temporary removal action and contain a date for the hearing required in this § 207. Temporary removal is effective immediately and prohibits the commissioner's further participation in any Gaming Commission business. Tribal Council must convene a hearing within 10 days of the written notice to consider whether to remove or reinstate the commissioner, and the hearing must be conducted according to § 207(d) below.

(c) The Tribal Council may otherwise remove a commissioner by delivering written notice to a commissioner that it will consider the commissioner's removal from the Gaming Commission. The written notice must state the basis for the removal action and contain a date for the hearing required by this § 207(c).

(d) The Tribal Council may conduct a removal hearing at any regular or special Tribal Council session, or by a special or emergency session called for that purpose. The commissioner subject to removal must appear in person at the hearing or meeting, and may present witnesses. A commissioner subject to removal has a right to counsel present at the hearing or meeting. If the Tribal Council finds that the commissioner has engaged in behavior described in § 207(a), it will remove the commissioner. Failure of a commissioner to appear after receiving notice that he or she is subject to removal will be considered default and is sufficient for a finding under § 207(a). A written record of all removal proceedings, including the charges and findings, must be kept by the Tribal Secretary.

(e) The decision of the Tribal Council after a hearing to remove a commissioner is final action for purposes of appeal to the Tribal Court, which shall be limited to administrative review.

§ 208. Meetings; Honorariums; Quorum; Voting. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission must hold at least one regular meeting per month on a schedule determined in advance by the Gaming Commission and posted publicly. Regular session agendas must be posted for public notice at least one week prior to the meeting.

(b) The Tribal Council, the Chair of the Gaming Commission, or any member of the Gaming Commission may call a special session. Special session agendas must be posted as soon as practicable after the meeting is called.

(c) The commissioners may be paid an honorarium for attendance at all regular meetings conducted pursuant to the 2 GTB 5, Open Access Meetings Act, and for all hearings conducted pursuant to Gaming Commission Regulations Chapter 5. Honorariums shall not be paid for special meetings, trainings, or travel obligations.

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(d) Quorum for the conduct of Gaming Commission business is a majority of the total number of commissioners seated on the Commission by appointment or election.

(e) The Gaming Commission can only act by motion, resolution, or regulation as determined by a majority vote with a quorum present.

(f) A Commissioner must recuse himself or herself from all participation and decisions that pose a real or apparent conflict of interest.

§ 209. Delegation of Authority. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The Tribal Council delegates to the Gaming Commission sufficient legislative and executive authority to implement this Title 18. The Gaming Commission has the power:

(a) To issue any gaming license as authorized by this Title 18, and to deny, suspend, or revoke the same;

(b) (Reserved)

(c) To promulgate and publish regulations to control day-to-day gaming activities, and to publish and distribute those regulations and this Title 18, and other applicable laws or regulations it deems necessary;

(d) To convene hearings and to administer oaths under penalty of perjury, and at hearings or otherwise to examine witnesses or individuals, orally or in writing, and to compel by subpoena the appearance of any person or the production of any books, records, or papers;

(e) To examine or investigate any gaming facility or any other place, equipment, tangible property, books, records, papers, vouchers, accounts, documents, or financial statements of any gaming operation operating or suspected to be operating within the jurisdiction of the Grand Traverse Band;

(f) To request and receive assistance from the Tribal Legal Department for hearings, for defining terms in this Title 18, for advising the Commission, for drafting documents or for any other permissible purpose;

(g) To employ advisors as it deems necessary, such as law enforcement specialists, gaming professionals, the Tribal Legal or Accounting Departments, to exercise and carry out its responsibilities;

(h) To sue in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Title 18 and other tribal laws, subject to the explicit approval of Tribal Council by written resolution, and the authority to arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to its authorized activities, including the power to bring suit for mandamus, injunctions, or other proceedings necessary to compel obedience to its orders;

(i) To purchase, lease, take by gift, devise, bequest or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible and intangible, including money, securities, or interests therein, rights and services of any kind and description or any interest therein, provided that any acquisition of any interest in real property is subject to the explicit approval of the Tribal Council by written resolution, and that title to real property or fixtures or improvements upon real property be taken in the name of the Grand Traverse Band or in the name of the United States for the Grand Traverse Band, and that all title to trust or restricted real property remain in trust or restricted;

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(j) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property, assets and revenue;

(k) To enter into, make, perform, and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state, or local agency, or Indian tribe, or person, partnership, corporation, or other association or entity for any lawful purpose pertaining to its business or which is necessary or incidental to accomplishing the purposes of this Title 18;

(l) To adopt and amend fee schedules and to charge fees to members of the public for licensing, investigating, or otherwise conducting its business, provided that no fee will be charged to or required of any tribally-owned or tribally-operated Class II or Class III gaming operation;

(m) To require by regulation the filing of any records, forms, or reports, and all other information desired by the Tribal Council for implementation of this Title 18 relating to any gaming activity or operation, or any investigation as required by tribal or the Indian Gaming Regulatory Act;

(n) To provide for an internal system of recordkeeping with adequate safeguards to preserve confidentiality;

(o) To conduct background investigations of all individuals or entities who apply for licensing;

(p) To discipline any applicant or licensee by ordering immediate compliance with this Title 18 or its regulations, and to issue orders of temporary suspension for any issued license;

(q) To order the temporary closure of any gaming facility within the Band's jurisdiction if it determines that closure is necessary to protect the assets or interests of the Band; and

(r) To delegate by regulation, motion, or resolution its power and authority to a Regulatory Department for execution, provided that the Gaming Commission shall not delegate its authority to permanently revoke a gaming license.

§ 210. Duties. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The Gaming Commission has the duty to monitor and regulate gaming activity within the Band's jurisdiction, and to enforce this Title 18 and its regulations according to tribal law and applicable federal law. The Gaming Commission has duties that include, but are not limited to the following:

(a) To arrange for and attend appropriate training for its members and its staff to maintain competence with applicable federal and tribal law, which must include at least one annual on-site training provided by the NIGC;

(b) To maintain files of license applications, background investigations, and hearing records, for a period of at least 10 years, notwithstanding any provision of law that permits a shorter time period;

(c) To prepare an annual operating budget for all Gaming Commission activities and present it to the Tribal Council by August 15th of each year, with any requests under the GTB Appropriations Act subject to the tribal budgeting process;

(d) To delegate to the Regulatory Department sufficient authority and duties to perform day-to-day execution of this Title 18 and related regulations, including, but not limited to, the conduct of background investigations on each person or entity applying for a gaming license;

(e) To receive reports from the Regulatory Department regarding its inspections and/or audits of each

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licensed gaming facility according to § 212 of this ordinance.

§ 211. Regulatory Authority. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Gaming Commission regulations promulgated under Section 209(c) above must include, at a minimum:

(1) Internal operating procedures of the Gaming Commission, the Regulatory Department and its staff, provided that the Department and its staff shall also be subject to all applicable tribal policies, including, but not limited to, personnel policies, travel policies, purchasing policies, operating charts and chains-of-command;

(2) A regulatory system for all gaming activity, including accounting, contracting, licensing and suspension of licenses;

(3) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Gaming Commission authorized by this Title 18.

(b) No regulation of the Gaming Commission will be of any force or effect unless it is adopted by the Gaming Commission by written resolution and subsequently published by a resolution of the Tribal Council and both filed for record in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court.

(c) The Tribal Court and any other court of competent jurisdiction may take judicial notice of all Gaming Commission regulations adopted pursuant to this Code, and the Gaming Commission must provide all courts of competent jurisdiction with copies of properly enacted regulations.

§ 212. Right of Entrance; Monthly Inspections. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Regulatory Department staff may enter the premises of any gaming operation or gaming facility for the purpose of making inspections and examining the accounts, books, papers and documents of the operation of the facility during the facility's business hours.

(b) A Gaming Commission or a member of the Regulatory Department must visit each tribally-owned or tribally-operated gaming facility at least once every two weeks during normal business hours of 8:00 a.m. to 5:00 p.m. for the purpose of monitoring its operation. All visits shall be unannounced. A gaming operator shall facilitate such inspection or examination by giving every reasonable aid to the Gaming Commission and to any properly authorized officer or Regulatory Department staff.

§ 213. Investigations. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) A commissioner who receives information regarding an alleged violation of this Title 18 shall disclose to the Gaming Commission the nature of the alleged violation. The Commission by motion may direct the Regulatory Department to investigate the alleged violation. Subsequent contact regarding the alleged violation must not be received by a commissioner but must be directed to the Regulatory Department for inclusion in its investigation.

(b) Any commissioner with personal knowledge of an alleged violation must recuse himself or herself from any subsequent hearing regarding the alleged violation.

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Chapter 3
EDC Gaming Authority

§ 301. Purpose. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The purpose of this chapter is to authorize the Economic Development Corporation, as established by its charter at 15 GTBC 2.01 et seq., as a gaming operator.

§ 302. Authorizations and Duties. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

The Economic Development Corporation is authorized to exercise the sufficient powers in order to fulfill its duties:

(a) To issue policy statements on the operation of gaming consistent with the Band's overall policies on gaming;

(b) To develop a system of procedures for all regulated gaming activity and to submit the procedures to the Gaming Commission for consideration, approval, and appropriate publication;

(c) To propose a system of internal controls describing the personnel requirements and procedures necessary to effectuate appropriate internal controls, and to submit the proposed system to the Gaming Commission for consideration, approval, and appropriate publication;

(d) To develop personnel and company policies for its employees and operations;

(e) To cooperate with the Gaming Commission to consult and make recommendations to the Tribal Council regarding amendments to the Band's gaming laws and policies;

(f) To purchase, as a gaming operator, insurance from any stock or mutual company for any property, or against any risk or hazard;

(g) In its capacity as a gaming operator, to operate surveillance activities for its gaming operations, the objectives of which must include reporting information concerning compliance by gaming patrons and operation employees with established tribal and federal rules and regulations;

(h) For purposes of this Title 18, to deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire, or otherwise; and to hold, own, use, license, lease, and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, improvements, letters patent, and applications therefor, trademarks and applications therefor, and trade names, provided that title to all such interest shall be taken in the name of the Grand Traverse Band of Ottawa and Chippewa Indians;

(i) For the purposes of this Title 18, to borrow money and make, accept, endorse, execute, and issue bonds, debentures, promissory notes, guarantees or other obligations for money borrowed, or in payment for property acquired or for any of the purposes of the EDC, and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indentures, agreement, or other instrument of trust or by lien upon, assignment of, or agreement in regard to all or any part of its property, assets, or revenues;

(j) To arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to its activities under this Title 18;

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(k) To enter into, make, perform, and carry out any agreement, partnership, joint venture, or other understanding with any federal, state, or local governmental agency, tribe, person, partnership, corporation, or other association or entity for any lawful purpose pertaining to its business or which is necessary or incidental to the accomplishment of its purposes under this Title 18;

(l) To exercise tax powers vested in the Tribal Council by the Grand Traverse Band Constitution, when such powers are delegated to the EDC by the Tribal Council in a written resolution, and in accordance with this Title 18 and other applicable laws;

(m) With the prior approval of the Tribal Council, to make application for, and accept, grants and other awards from private or public sources to carry out or further its purposes under this Title 18;

(n) To exercise all authority delegated to it or conferred upon it by law, and to take all action which is reasonably necessary and proper to execute the foregoing powers and any other authorities vested in this Title 18, which it deems to be in the best interests of the Band;

(o) As a gaming operator, to establish and maintain such bank accounts as may be necessary or convenient.

§ 303. Annual Budget. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The EDC shall prepare a separate annual operating budget for all EDC gaming activities and present it to the Tribal Council by August 15th of each year.

(b) The EDC request under the GTB Appropriations Act (4 GTBC 101 et seq.) shall be subject to the Band's budgeting process.

§ 304. Management by Gaming Manager. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The Tribal Council delegates to the EDC the responsibility for appointing one person to serve as gaming manager of each tribally-owned or tribally-operated gaming facility.

(b) A gaming manager must obtain and retain an employee license as a primary management official under these regulations.

(c) The gaming manager is responsible for managing and overseeing the day-to-day operations of the gaming facility, and has such authority as the EDC may delegate by written rules.

§ 305. Use of Net Revenue. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) All revenue of a tribally-owned or tribally-operated gaming facility transferred by the EDC to the Band shall be held in the name of the Band. The net revenue may only be expended by the Tribal Council by resolution and only for the following purposes:

(1) To fund tribal government operations or programs;

(2) To provide for the general welfare of the Band and its members;

(3) To promote tribal economic development;

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(4) To donate to charitable organizations;

(5) To help fund operations of local government agencies.

(b) All net revenues shall be expended according to the GTB Revenue Allocation Ordinance, 18 GTBC 1601 et seq.

§ 306. Payouts; Bank Secrecy Act. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) Any cash winning of an amount under $25,000 shall be paid in cash or check by the gaming operation on the date it is won. A patron's winnings of any amount $25,000 or greater shall be paid by check and within 72 hours of the time it is won.

(b) A gaming facility will comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, 31 U.S.C. §§ 5311 — 5314.

§ 307. Insurance. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) A tribally-owned or tribally-operated gaming facility must carry sufficient liability insurance to protect the public in the event of an accident.

(b) Nothing about this provision operates as an assumption of liability, an admission of or contribution to fault, a waiver of sovereign immunity or other defenses, or consent to suit in any jurisdiction or venue.

§ 308. Gaming Operation Standards. [History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.]

(a) The EDC shall promulgate specific employee policies and procedures for its gaming operations according to its business needs. The policies and procedures must contain, at a minimum, the standards set forth in this § 308.

(b) Drug Testing:

(1) An applicant for employment in a position within an EDC gaming operation must submit to a drug and alcohol test as a condition of hire.

(A) Failure or refusal to submit to a drug and alcohol test shall result in the denial of employment.

(B) If the pre-employment drug and alcohol test indicates the presence of alcohol or illegal drugs, the EDC shall deny employment to the applicant.

(2) Employees in any position within an EDC gaming operation shall submit to drug or alcohol testing at the request of appropriate EDC personnel according to EDC policies. A request for a drug or alcohol test may be made as part of a random survey, or following any incident or accident, or based on a suspicion that the employee is under the influence of drugs or alcohol.

(A) Failure or refusal to submit shall result in the immediate termination of employment.

(B) If the drug or alcohol test indicates the presence of alcohol or illegal drugs, the employee

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must be given an opportunity to participate in counseling or rehabilitation for addiction. If the employee refuses to participate, or fails to successfully complete the counseling or rehabilitation, or if the employee was previously offered the opportunity after failing a prior drug or alcohol test, then his or her employment shall be terminated.

(c) Time; Overtime; Exempt Employees.

(1) The EDC shall track the time of all employees in a gaming operation in increments of a forty-hour work week, consisting of seven consecutive twenty-four-hour periods or 168 consecutive hours.

(2) Non-supervisory employees in casino, restaurant, lodging, and administrative divisions shall be paid 1 1/2 times their regular wage rate for time worked in excess of 40 hours during a work week, unless exempt by Subsection (c)(4) below.

(3) Employees shall observe appropriate policies enacted by the EDC to have overtime authorized in advance. Employees who participate in a tip pool shall have overtime compensation calculated from the base rate prior to adding in the tip pool.

(4) Executive, administrative and professional employees, as defined herein, of EDC gaming operations are not entitled to overtime pay established by § 308(c)(2) above.

(A) Executive employees are those with a primary management duty and who regularly direct the work of two or more employees, or who have the authority to hire, fire or promote any employee.

(B) Administrative employees are those who do office work, or non-manual work directly related to management operations.

(C) Professional employees are those who require advanced training or certification to perform professional services.

(d) Minimum and Maximum Wages.

(1) The EDC shall comply with minimum and maximum wage requirements as set by Tribal Council. Differing rates may be set to distinguish employees who participate in tip pools.

(2) The maximum wage payable to any non-exempt employee shall be 5 1/2 times the minimum wage in effect by resolution of Tribal Council.

(e) No person shall be required, as a condition of employment with any division of the EDC, to:

(1) Resign or refrain from voluntary membership in, voluntary affiliation with or voluntary financial support of a labor organization;

(2) Become or remain a member of a labor organization;

(3) Pay dues, fees, assessments or other charges of any kind or amount to a labor organization; or

(4) Pay to any charity or other third party, in lieu of such payments described in Subsection (e)(3) above, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

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Chapters 4 Through 13 (Reserved)[12]

12. **Editor's Note: Former Ch. 4, Tribal Gaming Commission; Ch. 5, Economic Development Corporation; Ch. 6, Gaming Licenses; Ch. 7, Gaming Employee Licenses; Ch. 8, Provisions Of General Applicability To All Gaming Operators; Ch. 9, Enforcement; Ch. 10, Operation Of Tribally-Owned Or Tribally-Operated Games; Ch. 11, Authorized Games; Ch. 12, Electronic Devices Or Service Provider Licenses; Ch. 13, Procedure For A Certificate Of Rehabilitation For The Limited Purpose Of Obtaining A GTB Gaming License, Adopted By Tribal Council Of October 1, 1993, As Amended, Were Removed By Tribal Council Motion At A Tribal Council Special Session On January 31, 2018.**

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Chapter 14
Drug And Alcohol Testing

§ 1401. Purpose. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) The EDC is committed to providing a work environment free from the effects of alcohol and illegal drugs.

(b) The Tribe is also committed to providing employees who abuse alcohol or use illegal drugs the opportunity for rehabilitation.

(c) Consistent with this philosophy, the EDC shall implement comprehensive drug and alcohol testing for all applicants for employment and for all employees and management officials connected with the gaming enterprise.

§ 1402. Drug and Alcohol Testing for Applicants. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) All applicants for employment in licensed positions shall be required to submit to a drug and alcohol test as a condition of obtaining a gaming license.

(b) All applicants for employment in non-licensed positions shall be required to submit to a drug and alcohol test as a condition of employment.

(c) Testing shall be in accordance with the rules and regulations of the EDC.

§ 1403. Drug and Alcohol Testing for Employees. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

Employees shall be required to submit to drug and alcohol testing in accordance with the rules and regulations of the EDC.

§ 1404. Refusal of Testing. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) Refusal by an applicant for employment to submit to a drug and alcohol test shall be grounds for the denial of a gaming license and, in the case of a non-licensed position, for the denial of employment.

(b) Refusal by an employee to submit to a drug and alcohol test shall be grounds for termination of employment.

§ 1405. Positive Test Results: Consequences. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) In the case of an applicant for employment, a positive test result shall be grounds for the denial of a gaming license and/or the denial of employment.

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(b) In the case of an employee, a positive test result shall not result in termination of employment where such result is the employee's first positive test result on a drug or alcohol test required by the EDC, unless:

(1) The EDC has given the employee the opportunity to participate, at the employee's own expense, in a drug or alcohol counseling or rehabilitation program, whichever is more appropriate; and

(2) The employee has either refused to participate in the counseling or rehabilitation program or has failed to complete the program successfully.

§ 1406. Procedures. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

The EDC shall develop procedures and forms consistent with this code.

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Chapter 15
Labor Standards

§ 1501. Establishment. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) The authority for the establishment of Labor Standards is taken pursuant to the Tribe's sovereign status; the Tribal Constitution, adopted pursuant to the Indian Reorganization Act, Section 16 (48 Stat. 984); the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et. seq.; the Revenue Allocation Ordinance adopted by the GTB and approved by the Secretary of the Interior pursuant to the authority contained in the IGRA [18 G.T.B.C. Chapter 16]; and the compact between the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan [see Appendix to this title]; and

(b) The application of general federal statutes to Indian tribes and tribal organizations covering labor relations is currently in dispute with a conflict among the 7th, 8th, 9th and 10th Circuit Courts of Appeal. The 6th Circuit Court of Appeals has not directly addressed the issue; and

(c) The EDC recognizes the interests promoted by both the policy of tribal sovereignty and the policy of labor standards adopted by the federal government.

(d) The Tribe hereby creates and establishes the following Labor Standards for all gaming operations of the EDC.

§ 1502. Overtime. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

The casino, restaurant, lodging and administration divisions of the EDC shall pay 1 1/2 times the employee's regular rate for hours worked in a work week beyond 40 hours.

§ 1503. Forty-Hour Work Week. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

A work week consists of seven consecutive twenty-four-hour periods, i.e., 168 consecutive hours, designated by the business needs of the respective divisions of the EDC.

§ 1504. Covered Employees. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

All regular hourly employees in a non-supervisor position shall be covered by § 1502.

§ 1505. Exempt Employees. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) All executive, administrative, and professional employees of EDC gaming operations are exempt from overtime payment requirements.

(b) Executive employees have a primary management duty and regularly direct the work of two or more

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employees or have the authority to hire, fire, or promote employees.

(c) Administrative employees do office work or non-manual work directly related to management operations.

(d) Professional employees do work that requires advanced training.

§ 1506. Minimum and Maximum Wages. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) The EDC shall comply with the minimum and maximum wage set by the Tribal Council.

(b) The current minimum wage [March 1996] is $6/hour for positions not eligible for participation in the tip pool.

(c) For positions eligible for participation in the tip pool, the minimum wage is $2/hour.

(d) The maximum wage is a multiple of 5.5 times the minimum wage of $6/hour.

§ 1507. Overtime Authorizations. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

Division managers shall develop appropriate chain of command policies for the authorization of overtime.

§ 1508. Computation of Overtime. [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

For employees who participate in the tip pool, overtime compensation rates shall be calculated from the employee's base rate prior to adding in the tip pool.

§ 1509. Recordkeeping Enforcement [History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998.]

(a) The division managers shall comply with the procedures established by the Accounting Department to comply with recordkeeping.

(b) Enforcement shall be the responsibility of the EDC which may delegate this responsibility to a "labor specialist" familiar with the federal and state policy on labor matters.

(c) This delegation shall not be construed to mean that federal or state labor laws apply to the EDC. However, the labor specialist may use such laws for analogical reasoning purposes.

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Chapter 16
Revenue Allocation

SUBCHAPTER 1
Revenue Allocation Ordinance.

NOTE: Appendixes A through F, which were included in the Revenue Allocation Ordinance enacted May 31, 2000, as amended, are not reproduced in this Code. Copies may be obtained through the Grand Traverse Band Legal Department. These appendixes are titled: Appendix A, Trust Agreement February 18, 1998; Appendix B, IRS Private Letter Ruling, March 8, 2000; Appendix C, IRS Private Letter Ruling, November 17, 1998; Appendix D, Deferred Per Capita Benefit Plans, Plan A and Plan B; Appendix E, Procedures for Incarcerated Individuals; and Appendix F, Administrative Procedures for Per Capita Emergency Loans.

§ 1601. Resolution and Repeal of Inconsistent Legislation. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

This Revenue Allocation Ordinance (hereafter this "RAO") is adopted pursuant to Article IV, Sections 1 (a), (h), and (j) of the Tribal Constitution (hereafter the "Constitution") of the Grand Traverse Band of Ottawa and Chippewa Indians (hereafter the "GTB"). Ordinance No. 94-117, as amended 3-21-1996; 8-21-1996 [affirmed 9-6-1996]; 12-16-1997 [enacted 2-17-1998]; 6-8-1998; 11-17-1998; and 4-28-1999, is hereby repealed. This RAO shall govern the allocation of available net revenues from the gaming enterprises, including Turtle Creek Casino, Leelanau Sands Casino, and any subsequent gaming enterprise of the GTB ("net revenues"), for each fiscal year of the GTB, including per capita distributions to qualified members of the GTB.

§ 1602. Policy. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) The GTB retains the inherent sovereign right to determine the best interests of its minor Tribal members by providing for their future welfare by contributing per capita benefits into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those minor Tribal members. All assets accumulated in the trust or trusts for the benefit of a minor Tribal member shall be distributed in the manner set forth herein at such time as the minor reaches the ages of 21, 22, 23 and 24 and not before, except in the limited extraordinary circumstances provided in § 1605(e)(3)(A) and (B).

Based on a survey of the GTB Tribal membership, the majority 79% of Tribal members who responded would endorse a GTB Tribal policy of no access to the childrens' trust funds. Based on this determination of the will of GTB Tribal membership, access to the childrens' trust funds described in § 1605(d) shall be limited under Tribal policy consistent with the United States Department of the Interior regulation codified at 25 C.F.R. 290-12, Tribal Revenue Allocation Plans, (ii). Loans to parents or guardians of children shall not be granted or secured by the children's trust fund.

(b) The GTB has determined that it is in the best interests of minor Tribal members that per capita payments be contributed to a minor's irrevocable grantor trust or trust subject to the power of

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substitution by the grantor Tribe. The Trust Agreement is attached hereto and incorporated by reference as Appendix A.

The non-fiduciary power of substitution shifts the income tax consequence to the grantor Tribe until the trust is distributed under the terms of the trust. In 1995 the Tribe sought a private letter ruling from the Internal Revenue Service (IRS) that such a trust did not create taxable income in the minor per capita payments made by the grantor Tribe.

The IRS issued a private letter ruling [PLR 114616-98] (March 8, 2000) sanctioning the above arrangement in the following language:

(1) Neither the creation of the trusts, nor the contributions of assets to the trusts, nor the accumulation of income in the trusts will result in taxable income for the minors or incompetent members of the GTB using the cash method of accounting.

(2) Benefits payable from the trusts will be includable in the gross income of the minor or incompetent members in the taxable year or years in which the benefits are actually distributed or otherwise made available.

(3) Provided that the circumstances surrounding the trusts' administration indicate that the power of administration held by the GTB over the trusts (i.e. the power to substitute assets for assets of equivalent value) is exercisable by the GTB in a nonfiduciary capacity without the approval or consent of a person in a fiduciary capacity, the GTB will be treated as the owner of the trusts under Section 675 [of the Internal Revenue Code].

(4) Assuming that the GTB is treated as the owner of the trusts under Section 675 [of the Internal Revenue Code], the GTB, which is not subject to federal income tax, shall not be subject to federal income tax on the income of the trusts nor will there be any tax consequences to the GTB upon funding of the trusts. Rev. Rul. 94-16, 1994-1C.B. 19; Rev. Rul. 67-284, 1967-2 C.B. 55.

The IRS private letter ruling [PLR 114616-98] (March 8, 2000) is attached hereto and incorporated by reference as Appendix B.

(c) The GTB also has determined that it is in the best interests of its adult Tribal members who have been declared incompetent by a court of competent jurisdiction to contribute per capita benefits into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those members as necessary for the beneficiary's health, welfare or economic security, including their support, maintenance, and education, as provided in § 1605(f).

(d) The GTB also has determined that it is in the best interests of certain adult Tribal members, who have adequate resources available for their current general welfare from other sources, to provide deferred per capita benefits for such members in lieu of current per capita benefits to ensure that they have adequate resources to provide for their general welfare in the future, provided that such members satisfy the eligibility criteria for such benefits as provided in § 1605(f), and sanctioned by an IRS private letter ruling [PLR 36099-95] (November 17, 1998) which is attached hereto and incorporated by reference as Appendix C. The Deferred Per Capita Plans A and B are attached hereto and incorporated by reference as Appendix D.

(e) For the per capita payment for the year of 2000, the GTB EDC shall use the gaming revenue figures of November 1, 1999 to October 31, 2000 on a projected income basis. For the per capita payment for the year of 2001, the GTB EDC shall use an eleven-month payment year of November 1, 2000 to

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September 30, 2001. The eleven-month payment year in the year 2001 is necessary to adjust the GTB EDC accounting year from a calendar year to a fiscal year to coincide with the fiscal year of the GTB Government. Thereafter, per capita payments shall be computed on an October 1 to September 30 fiscal year.

§ 1603. Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) Subject to § 1604 ("Use of Net Revenues; Tribal Economic Development"), the Tribal Council hereby allocates the following schedule of net revenues in order to provide funding for Tribal governmental operations and programs and the long term investment program:

Tribal governmental operations and programs:	25%
Long term investment program:	10%

(1) If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal governmental operations and programs, the long term investment program or for various components thereof. Any overall percentage increase shall be drawn from the percentage set by § 1604 ("Use of Net Revenues; Tribal Economic Development"). The Tribal Council shall not decrease the allocated percentage set by this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") to increase the percentage set by § 1605 ("Use of Net Revenues; Individual Per Capita Benefits"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.

(2) Any net revenues allocated to funding for Tribal governmental operations and programs that have not been encumbered as of the last date of any fiscal year of the Tribal government may, at the Tribal Council's discretion, be allocated to the purposes set forth in § 1604 ("Use of Net Revenues; Tribal Economic Development") or be allocated to funding for § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") Tribal governmental operations and programs for the subsequent fiscal year.

(3) Any Tribal member shall have standing to raise the question of whether the Tribal Council is following the RAO distribution formula. Such challenges shall be brought in the Tribal Court under a cause of action styled as "RAO Distribution Cause of Action." The elements of cause of action shall be 1) must be a Tribal member; 2) the standards of the RAO alleged to have been violated; and 3) factual allegations that allege a present violation of the standards. The Tribal Court shall fashion the remedy consistent with Tribal law and generally accepted accounting principles (GAAP).

(b) The net revenues allocated to Tribal governmental operations and programs shall be expended in accordance with the Tribal budget appropriation process. The Tribal Council is the sole decision-making body as to any actions taken upon budget reports and requests and as to the allocation of funds designated for Tribal governmental operations and programs. The Tribal Council or its appointed agent shall disburse the funds allocated to Tribal governmental operations and programs in

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accordance with the annual Tribal budget and the Tribal appropriation process. Any disbursements made hereunder shall be received by the receiving Tribal governmental operation or program and handled in a manner consistent with the operations or programs GAAP.

(c) The net revenues to Tribal government operations and programs shall be remitted to the Tribal Government Accounting Office by the GTB EDC on a quarterly basis. The GTB Governmental Accounting Office and the GTB EDC Accounting Office shall sign a schedule of prospective payments ratified by the Tribal Council, to insure the timely transmittal of the Tribal Governmental Operations and Program proceeds to the GTB Governmental Accounting Office consistent with the GTB appropriation process.

(d) The Tribal long-term investment program shall be operated pursuant to an investment policy to be adopted by resolution of the Tribal Council. At a minimum, this investment policy shall provide:

(1) That the net revenues allocated to investment shall be weighted toward investments that provide for the long-term security of the GTB and its Tribal members;

(2) A description of the types of investments made;

(3) A percentage allocation of equities and debt instruments;

(4) Investment objectives to be reviewed on a quarterly basis by the Tribal Council or its appointed agent;

(5) A list of investments that shall be excluded due to their lack of safety and liquidity; and

(6) A comprehensive investment plan incorporating principles of prudent but market- based portfolio management.

Investments shall be made with nationally recognized, reputable and safe investment companies in accordance with the GTB's goal of the long term economic security of the Tribe and its Tribal members. Interest earned on investments made pursuant to this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") shall not be used to provide per capita benefits as defined in § 1605 ("Use of Net Revenues; Individual Per Capita Benefits"). In accordance with the GTB's stated policy to provide for the long term economic security of itself and its Tribal members, a substantial portion of the interest earned on investments made pursuant to this § 1603 shall be reinvested at the discretion of the Tribal Council. The Tribal Council, in its discretion, may allocate the interest earned on investments made pursuant to this § 1603 in accordance with the provisions of IGRA or any other applicable federal law.

(e) The Tribal Council shall publish an Annual Report and Audit of the long-term investment fund established by this § 1603. Such report shall contain reporting material consistent with the principles of full disclosure and designed to inform the Tribal member to the fullest extent possible of the growth or decline and expenditure of the long-term investment account.

(f) Each year the Tribal Council shall develop an annual plan for investment objective and principal Tribal uses of the long-term investment fund. Such report shall be included in the investment report required by § 1603(d).

(g) By January 1, 2001, the Tribal Council shall develop a position description of Tribal Money Manager. The position of the Tribal Money Manager shall be established after an extensive review and consultation with licensed, qualified money managers, certified public accountants (CPAs), attorneys,

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and such other professions identified by the Tribal Council. The Tribal Money Manager shall advise the Tribal Council on long-term investments, monitor the long-term investment fund and report on the long-term investment fund.

§ 1604. Use of Net Revenues; Tribal Economic Development. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) Subject to § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"), the Tribal Council hereby allocates the following schedule of net revenues in order to provide funding for Tribal economic development: 15% of net revenues from gaming revenue.

(1) The GTB EDC shall be charged with administering this 15% allocation.

(2) The GTB EDC shall develop an Economic Development Plan for the expenditure of this 15% allocation herein.

If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal economic development. Any overall percentage increase shall be drawn from the percentage set by § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"). The Tribal Council shall not decrease the allocated percentage set by this § 1604 to increase the percentage set by § 1605 ("Use of Net Revenues; Individual Per Capita Benefits"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.

(b) The Tribal Council shall have the authority to appropriate and expend net revenues allocated to Tribal economic development to supplement funding for ongoing Tribal economic enterprises. Requests for supplemental funding for the Tribal ongoing businesses and enterprises shall be considered in accordance with GTB governmental procedures. The Tribal Council shall thereafter allocate those net revenues designated for Tribal economic development to the ongoing business or enterprise as it deems necessary and reasonable.

(c) Separate accounting and audits shall be done for economic development projects of the GTB/EDC. All enterprises and businesses are to be treated as "stand-alone entities" in the accounting and audit statements.

(d) The GTB Economic Development Plan shall be operated pursuant to the development policy adopted by resolution of the Tribal Council. At a minimum, this development policy shall provide:

(1) Criteria for business plans;

(2) A mission statement;

(3) The Tribal Council or its appointed agent shall review developments on a monthly basis; and

(4) Establish a minimum internal rate of return.

§ 1605. Use of Net Revenues; Individual Per Capita Benefits. [History: Revenue Allocation

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Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #95-13.217, adopted by Tribal Council on March 21, 1995; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Act #99-17.703, enacted by Tribal Council in Special Session on May 3, 1999; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #06-24.1696, enacted by Tribal Council in Special Session on July 26, 2006; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; as amended by Tribal Act #08-26.1962 on September 17, 2008, as amended by Tribal Act #09-27.2125 on October 28, 2009; and as amended by Tribal motion, enacted by Tribal Council on September 15, 2016.]

(a) In order to advance the current and long term personal health, safety and welfare of qualified Tribal members, and subject to § 1609 ("Child Support Obligations") and § 1610 ("Tribal Court Orders"), the Tribal Council hereby allocates 50% of all net gaming revenues, less the costs of administration of the programs provided to be developed to implement the RAO in years 2001 through 2004, to be divided into equal shares and provided to all qualified Tribal members, with benefits for minor qualified Tribal members [as defined in § 1605(e)(1) below] being provided in accordance with the provisions of § 1605(e)(3) below, with benefits for adult qualified Tribal members who are legally incompetent being provided in accordance with the provisions of § 1605(f) below, and with deferred benefits for other qualified Tribal members being provided pursuant to Plans A or B described in Appendix D, established by the Tribal Council in accordance with eligibility criteria set forth in § 1605(f) below. In accordance with 25 C.F.R. 290 Tribal Revenue Allocation Plans (effective date April 17, 2000), and for purposes of this RAO, "per capita benefit" shall mean those per capita payments deposited into trusts for minors [see § 1605(e)(3)] or other legally incompetent persons [see § 1605(f)], or set aside for future payment under a deferred payment plan [see § 1605(g)] to qualified Tribal members pursuant to this § 1605 ("Use of Net Revenues; Individual Per Capita Benefits") from net revenues; no other commonly accepted or used definition of the term "per capita benefit" affects the use of the term herein.

(b) Per capita payments shall be paid, deposited into trusts for minors or other legally incompetent persons, or set aside for future payment under a deferred payment plan on a semiannual basis, coinciding with the qualified Tribal member's calendar year.

(1) Beginning with the year 2000, per capita benefits for each calendar year shall be paid, deposited within five business days into trusts, or set aside for future payment on June 3 and December 3 of that payment year.

(2) All net revenues designated for distribution as per capita benefits, other than to minors [which shall be made in accordance with the provisions of § 1605(e) below], to other legally incompetent persons [which shall be made in accordance with the provisions of § 1605(g) below] and to members participating in a deferred benefit plan established pursuant to § 1605(f) below, shall be deposited, when received by the GTB, into a low-risk, interest-bearing account with a federally insured financial institution prior to distribution. For purposes of this subsection, said deposits shall be made within five days of the date such revenue is received by the GTB and shall be made in accordance with the percentage allocation set forth above. Interest earned prior to distribution on net revenues deposited in this account shall be allocated among the per capita recipients and added to the per capita benefits.

(c) "Qualified Tribal members" for purposes of this RAO shall mean any individual who is duly enrolled in the GTB in accordance with Article II of the Tribal Constitution and living as of June 1st of the benefit year in question. A Tribal member receiving semiannual distributions who dies before

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December 1st shall not be eligible for the December payment.

(d) In addition, in order for any qualified Tribal member to be entitled to deferred payments, the member must apply for benefits on a form prescribed by the Tribal Council on or before such date as may be prescribed by the Tribal Council.

(1) Consistent with Article II, Section 3, ("Membership Procedure") of the Constitution, any "qualified Tribal member" shall have legal standing to challenge the membership of current "qualified Tribal members" as improperly enrolled for purposes of receiving Tribal per capita.

(2) Any person denied membership shall have the legal standing to challenge the denial of membership before the Tribal Council on an administrative review standard of de novo review.

(e) In order to provide for the future safety and well being of the children of the GTB, per capita benefits for minor qualified Tribal members shall be contributed by the Tribal Council to one or more trusts which are grantor trusts for federal income tax purposes.

(1) A "minor qualified Tribal member" means an individual who is a qualified Tribal member as defined in § 1605(c) except that he or she has not reached the age of 18 as of June 3rd and December 3rd of the benefit year in question.

(2) Per capita benefits contributed to a trust or trusts shall be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to the minor qualified Tribal members.

(3) Providing sufficient evidence of eligibility, all assets accumulated in the trust or trusts for the benefit of a minor qualified Tribal member shall be distributed, upon application of the beneficiary and the completion of financial planning education provided by the Tribe at no cost to the minor, by the trustee or trustees or the Tribal Council in accordance with the following schedule:

At age 19, 33% of the then principal;

At age 20, 50% of the then principal; and

At age 21, the remaining assets of the trust.

(i) Eligibility requirements for distributions at ages 19 and 20 shall include graduation from high school or the achievement of a GED from an accredited educational institution; provided, however, that this requirement shall not extend to mentally disabled members as determined by health officials.

(ii) In the event a Tribal member provides sufficient proof of a high school diploma or GED after reaching the age of 19 but before reaching the age of 21, the date the degree was conferred shall replace the member's birthdate as the date on which the Tribal member is eligible for the first distribution. The first and second anniversaries of the date the degree was conferred shall be the dates on which the Tribal member is eligible for the second and third distribution, respectively. In the event a Tribal member does not achieve a high school diploma or a GED by age 21, the trust distribution shall be delayed until ages 21, 22, and 23.

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(iii) Prior to the first distribution as determined in 18 GTBC § 1605, notification of possible investment options shall be mailed to the minor, along with notice that there are financial planning alternatives to direct distributions.

(A) Prior to the time the minor beneficiary reaches the age of 21, the Tribal Court or the trustee or trustees, in their sole discretion, may make distributions from the trust or trusts to the parents or legal guardians of the beneficiary to defray the unreimbursed medical expenses in excess of $250 incurred by the beneficiary in any one calendar year, provided that the Tribal Council concurs in the determination made by the trustee or trustees.

(B) Upon the petition of the parents or legal guardians of the minor beneficiary, trust assets may be distributed to the parents or legal guardians of such minor or minors in such amounts as from time to time the trustee or trustees or the Tribal Court, in their sole discretion, deem necessary for the minor's health, education or welfare. The Tribal Court may require that the petitioning parent or legal guardian submit receipts of expenditures made on behalf of the minor before any disbursements are made, and shall require that the petitioning parent or guardian account to the trustees for any expenditures made from distributions from the trust or trusts. The Tribal Court may, at its discretion, authorize the trustee or trustees or the Tribal Court to establish a regular monthly distribution from the trust for the minor.

(4) For purposes of establishing standards for access to the minors' trust funds, the trustee, trustees or the Tribal Court shall follow standards that, to the extent permissible, preserve the child's estate consistent with federal and Tribal law.

(5) Based on the direction of RAO, Ordinance No. 94-117 and amendments thereafter, and the resulting trust documents attached thereto and incorporated by reference, the Tribal Council shall not move the minors' trust assets from the current trust manager, Huntington National Bank (acquirer by merger with original Trustee, Empire National Bank), for a period of five years to the year 2006, if at all, unless Huntington National Bank has failed to meet the "Prudent Investor Rule" as established by the "Estates and Protected Individuals Code for the State of Michigan" (1998 PA 386, as amended by 199 PA 52 effective 4-1-2000). In addition, at least three bids would have to be received for consideration prior to replacing Huntington National Bank as investment manager. In return, Huntington National Bank commits to maintain investment management of the children's trust at a maximum explicit rate of 22.5 basis points or less until the expiration of this RAO in 2006.

(6) The interest of each beneficiary shall be accounted for separately by the trustee, and a trust account statement shall be available at least semiannually to the parent or legal guardian of the beneficiary.

(7) When the minor qualified Tribal member reaches the age of 18, said member shall receive the subsequent semiannual per capita payment(s) directly for that year and each year thereafter.

(8) If any assets remain at the beneficiary's death, the trust shall terminate and the remaining trust assets (including any accrued net income) shall be distributed in equal shares to any surviving children of the beneficiary or to one or more trusts for the benefit of such children, or, shall be distributed to any surviving spouse or in equal shares to any surviving parents of the beneficiary who are members of the GTB, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings, shall revert to the GTB.

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(9) Consistent with the USA Patriot Act [18 U.S.C. § 5381(1) (2001); Pub. L. No. 107-56, § 326, 115 Stat 273, 317 (Oct. 26, 2110), as amended], the Grand Traverse Band shall provide Huntington National Bank, as Trustee (and as acquirer by merger with original Trustee, Empire National Bank), copies of Grand Traverse Band documents sufficient to verify the identity of the beneficiary for whom the qualified minor trust is created.

(f) In order to provide for the current and future safety and well being of adult qualified Tribal members, who have been declared incompetent by a court of competent jurisdiction, the per capita benefits for such qualified Tribal members shall be contributed by the Tribal Council to one or more trust(s) which are grantor trusts for federal income tax purposes.

(1) It shall be the responsibility of the legal guardian for each such qualified Tribal member to provide the Tribal Council with a letter of authority 15 days prior to June 3rd and December 3rd of the per capita benefits year.

(2) Per capita benefits contributed to a trust or trusts shall be invested, with income earned on the trust principal to be accumulated in the trust, for future distribution to the judicially declared incompetent Tribal member.

(3) In accord with 25 U.S. 2710(b)(3)(B) of the Indian Gaming Regulatory Act and 25 C.F.R. 290.12(3)(I)(ii)(iii)(4) and (5), Tribal Revenue Allocation Plans, the following process and substantive standards shall apply to the criteria for the withdrawal of funds from judicially declared incompetent Tribal members' trust funds.

(4) The Tribal Council and Huntington National Bank as Trustee (and as acquirer by merger with original Trustee, Empire National Bank) hereby delegate their trust responsibility and authority in this specific area of 25 C.F.R. 290.12(I)(ii)(iii) to the Tribal Court of the Grand Traverse Band established under Article V of the Grand Traverse Band Constitution.

(5) Upon the petition under the letter of authority, the legal guardian of the judicially declared incompetent Tribal member may request the Tribal Court to distribute trust assets to the legal guardian of the judicially declared incompetent Tribal member in such amounts as from time to time the Tribal Court deems necessary for the incompetent's health, education, or welfare. The Tribal Court shall require that the petitioning legal guardian submit receipts of expenditures made on behalf of the incompetent before any disbursements are made from distributions of the incompetent's trust. The Tribal Court may, at its discretion, authorize the establishment of a regular monthly distribution from the trust of the judicially declared incompetent Tribal member. The Tribal Court shall be authorized to make distributions from the trusts of the judicially declared incompetent Tribal member to the legal guardian to defray the unreimbursed medical expense incurred by the incompetent/beneficiary.

(6) Until the Tribal Council of the Grand Traverse Band acting in its legislative capacity formally enacts a Probate Code, the Tribal Court shall follow the Michigan Revised Probate Code M.C.L.A. 700.1 et al. and the following substantive Articles: 1. General Provision; 2. Administration and Probate of Decedents' Estates; 3. Independent Probate; 4. Guardianship and Protective Proceedings; 5. Fiduciaries; 6. Management of Property or Assets of Estate; 7. Claims against the Estate; and Trust and Trust Administration as guidelines in trust issues for purposes of establishing guidelines for access to the judicially declared incompetent Tribal members' trust funds. The Tribal Court shall follow guidelines that, to the extent permissible, preserve the incompetents trust funds while providing for the best interests of the incompetents' health, education, or welfare consistent with federal and Tribal law.

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(7) The Tribal Court shall follow the case law decisions of M.C.L.A. 700.1 et al., as guidelines for deciding petitions in Tribal Court. Decisions of the Tribal Court under this section are subject to appeal to the Grand Traverse Band Appellate Court. The Grand Traverse Band Appellate Court decisions are final.

(8) The interest of each judicially declared incompetent. Tribal member shall be accounted for separately by the trustee Huntington National Bank as Trustee (and as acquirer by merger with original Trustee, Empire National Bank) and a trust accounting statement shall be filed with the Tribal Court annually. The legal guardian of the judicially declared incompetent Tribal member shall receive a trust accounting statement from Huntington National Bank of the incompetent/ beneficiaries' trust assets once every six months.

(9) If any trust assets remain at the judicially declared incompetent/beneficiaries' death, the trust shall terminate and the remaining trust assets (including any accrued net income) shall be distributed in equal shares to any surviving children or the beneficiary or to one or more trust for the benefit of such children, or, in the absence of surviving children shall be distributed to any surviving spouse, or in the absence of surviving children or surviving spouse, in equal shares to any surviving parents of the judicially declared incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, or surviving parents, in equal shares to any surviving siblings of the incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings shall revert to the Grand Traverse Band.

(10) Consistent with the USA Patriot Act [18 U.S.C. § 5381(1) (2001); Pub. L. No. 107-56, § 326, 115 Stat 273, 317 (Oct. 26, 2110), as amended], the Grand Traverse Band shall provide Huntington National Bank, as Trustee (and as acquirer by merger with original Trustee, Empire National Bank), copies of Grand Traverse Band documents sufficient to verify the identity of the beneficiary for whom the qualified incompetent trust is created.

(g) As acknowledged by the IRS private letter ruling [PLR 36099-95] (November 17, 1998) which is attached hereto and incorporated by reference as Exhibit C in order to provide for the future well being of adult qualified Tribal members, other than legally incompetent members, who have adequate resources available for their current general welfare from other sources, funds shall be set aside pursuant to GTB Plan A and B as identified in the IRS private letter ruling [PLR 36099-95] (November 17, 1998). A member shall be eligible for deferred per capita benefits under either of the following circumstances:

(1) If the member has available to him or her from earnings or other sources income of at least $25,000 for the benefit year in question, and the Tribal Council or its designee determines that it is appropriate and in the long term best interests of the member to receive deferred benefits in lieu of current benefits so that there is a source of funds available to him or her upon reaching retirement or becoming disabled.

(2) If the adult qualified Tribal member validly elects to receive deferred benefits under one or more plans established by the Tribal Council. In order to qualify for deferred per capita benefits for any benefit year, the member must timely file an application for deferred benefits for the year containing information required by the Tribal Council.

(h) In order to further the policies and goals underlying the contribution of per capita benefits to one or more trusts for minors and other legally incompetent persons and to one or more deferred per capita benefit plans for qualifying adults, it is the intent of the Tribal Council that any benefits contributed to a trust or set aside for future payment under a deferred per capita payment plan shall be includable

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in the gross income of the member for federal income tax purposes no earlier than the date(s), and only to the extent, that the member is entitled to distributions from the trust or under the plan. This Tribal Council intent has been sanctioned by the IRS in two private letter rulings [PLR 36099-95] (November 17, 1998) and [PLR 114616-98] (March 8, 2000). Both of these IRS private letter rulings should be considered in construing this RAO.

(i) The GTB shall notify the member that the payments are subject to federal income taxation in accord with the provisions of 26 U.S.C. § 3402, (r) "Extension of withholding to certain taxable payments of Indian casino profits," (2)(3)(4)(5)(6)(7) and the implementation of the IRS Code at 26 C.F.R. § 3402 (r)-1, at such time as the benefits are paid to the member pursuant to § 1605(e), distributed to the member from a trust or trusts pursuant to § 1605(f) or distributed to the member pursuant to a deferred per capita benefit plan or plans pursuant to § 1605(g).

(j) Any person enrolling in the GTB after December 1, 1994, shall not be entitled to any back payments of per capita benefits. The first per capita benefit to a Tribal member enrolled after December 1, 1994, shall be on the first date for payment, deposit or set aside of per capita benefits, if any, that may be made after his or her qualified status is confirmed in accordance with § 1605(c).

(k) (Reserved)

§ 1606. Per Capita Distribution; General Welfare Doctrine. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) The Tribal Council shall establish an optional per capita payment process under the General Welfare Doctrine as identified in Bannon v. C.I.R., 99 T.C. 59, 62 (1992), that recognizes the exceptions to I.R.C. § 61(a). Such per capita payments shall be distributed exempt from federal income taxes consistent with the General Welfare Doctrine recognized in the private letter ruling [PLR 199924024] (June 17, 1997). The Tribal Council shall develop appropriate procedures to implement this § 1606 ("Per Capita Distribution; General Welfare Doctrine").

(b) The Tribal Council shall establish additional per capita payment standards similar to the general welfare distribution doctrine of gaming per capita consistent with Bannon v. C.I.R. supra; and tax exempt payments of child care; Rev. Rul. 78-170, 1978-1 C.B. 24, energy subsidy payments; Rev. Rul. 76-144, 1976-1 C.B. 17, disaster relief; Notice 99-3, 1999-2 I.R.B. 10, estate work payments. The Tribal Council shall develop appropriate procedures to implement this § 1606 ("Per Capita Distribution; General Welfare Doctrine").

(c) The Tribal Council is authorized to seek a private letter ruling from the IRS that the GTB optional per capita payment standards comply with the General Welfare Doctrine of Bannon v. C.I.R. supra, as a tax exempt income payment under this § 1606 ("Per Capita Distribution; General Welfare Doctrine") and applicable federal law.

§ 1607. Leveraging Per Capita Contingent Income. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) The Tribal Council shall establish a substantive and procedural program that permits Tribal members to collateralize their future per capita payments for present monetary loans. Such loans may only be negotiated through regulated financial institutions and/or the Tribe itself and in conformity with the procedures established by the Tribal Council. The primary instrument for securing a loan shall be a

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single maturity note attached to a credit life insurance policy for the value of the single maturity note. The financial institution shall become the beneficiary of the per capita payments to the value of the single maturity note upon filing the appropriate documents with the designated Tribal official. The filing of the single maturity note with the appropriate Tribal officials and the Per Capita Officer, in accord with the GTB Secured Transactions Ordinance, shall be perfected for purposes of notice to third-party creditors. The single maturity notes shall be subject to child support obligations and Tribal Court orders, regardless of the sequence of filing. Nothing in such program shall create duty, financial obligation, or liability on the part of the Tribal Court or Tribal government to any third-party obligee.

(b) The leveraging of future per capita payments shall be operated pursuant to a loan policy to be adopted by resolution of the Tribal Council. At a minimum, this development policy shall provide:

(1) Qualifications for loans;

(2) Guidelines for setting interest rates;

(3) Maximum term of loans;

(4) Maximum principle for loans; and

(5) Maximum fee on loans.

For purposes of the RAO, the future per capita income shall be viewed as contingent income for leveraging transactions with regulated financial institutions based upon the contingent income. The Administrative Procedures for Per Capita Emergency Loans is attached hereto as Appendix F and is incorporated by reference.

§ 1608. Application of Generally Accepted Accounting Principles (GAAP) [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; and as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000. As amended by Tribal Act #06-24.1635 enacted by Tribal Council February 15, 2006.]

(a) For purposes of this RAO, the accounting principles recognized as GAAP shall apply to issues of preparation, interpretation, and auditing of the gaming enterprise financial statements and the computation of net revenues. For purposes of this RAO, "available net revenues" shall be defined as gross income of tribal gaming activities less operating expenses less the costs of the administration of the benefit programs provided for in § 1605 ("Use of Net Revenues; Individual Per Capita Benefits") and less amounts needed to satisfy any obligations of indebtedness to which tribal gaming revenues are pledged.

(b) With regard to noncompliance with GAAP, the Tribal Council shall establish administrative procedures for a Tribal member to challenge the application of GAAP principles by the management of the Tribal gaming operation. Resolution of all disputes shall be determined by qualified nonparty C.P.A.s in a written method that presents policy accounting options on the posting, journaling, or entry of any accounting transaction to the books of the gaming operator. The end selection of the disputed procedure shall be made by the Tribal Council, provided the disputed procedure is authorized by GAAP.

(c) The GTB EDC Tribal gaming operator shall publish an annual report detailing the expenses of the

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gaming operation. The expenses of gaming operation must conform with the average financial operation ratio of five small cap public gaming companies as established by the annual reports of the public gaming companies.

§ 1609. Child Support Obligations. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

The Tribal Council shall establish a program to ensure that, if the GTB has knowledge that any recipient of a per capita benefit is delinquent with respect to a duty of support under an order issued by the court of any state or Indian Tribe, such per capita benefit shall be allocated to the satisfaction of such support obligation in priority over any distribution or allocation of such benefit otherwise provided for under this RAO. Such program shall include cooperation with federal, state, and Tribal governments under the Uniform Reciprocal Enforcement of Support Act, the Social Security Act, and similar statutes. Nothing in such program shall create a duty of financial obligation on the part of the Tribe to any support obligee or third party.

§ 1610. Tribal Court Orders. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

The Tribal Court shall establish a program to ensure that, if the Tribal Court has knowledge that any recipient of a per capita benefit is delinquent with respect to a valid existing GTB Tribal Court Order establishing liability of the recipient as a result of a Tribal Court action, then the Tribal Court shall receive satisfaction of the Tribal Court's outstanding claim prior to distribution of such benefit under this RAO. Nothing in such program shall create any duty, financial obligation, or liability on the part of the Tribal Court or the Tribal government to any third party obligee or party obligee. Obligations from per capita trust will be paid five working days subsequent to distribution.

§ 1611. Distributions [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994. As amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; and as amended by Tribal Act #08-26.1962, enacted by Tribal Council on September 17, 2008.]

(a) Except for the members for whom per capita benefits are being contributed to trusts pursuant to § 1605(e), or set aside for future payment under a deferred benefit plan pursuant to § 1605(f) or (g), and except for the members subject to the requirements of § 1609 ("Child Support Obligations"), and § 1610 ("Tribal Court Orders"), the per capita benefits for any qualified Tribal member shall be mailed to the last known address of the member on file with the GTB Tribal enrollment office unless the Tribal member has timely filed a "Per Capita Direct Deposit Form" with the per capita officer to receive per capita benefits in a direct deposit transaction into the Tribal members' personal bank account. Notarization of the Direct Deposit Form shall not be required; however, the tribal member must obtain the signature of two witnesses prior to filing the form with the per capita officer. The direct deposit program for per capita benefits is strictly voluntary and Tribal members are not obligated to enroll into the program. The burden of registration with the GTB Tribal enrollment office

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is with the member to ensure that the enrollment office has the member's correct and current address or correct information as stated on the "Per Capita Direct Deposit Form" including the account number and routing number of the bank account and proper verification the Tribal members' name is on the bank account. Nothing in such program shall create a duty of financial obligation or liability on the part of the Tribe to any support obligee or third party.

(b) Per capita benefits returned to the GTB as undeliverable shall be maintained by the GTB and/or deposited into an interest-bearing escrow account. The eligible member has until five business days before the next scheduled distribution of benefits to claim the returned benefits. If the returned benefits are not claimed within that time period, the benefits revert back to the GTB per capita fund.

§ 1612. Per Capita Personnel. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000. As amended by Tribal Council in Special Session on June 1, 2000.]

(a) Per Capita Officer. The Tribal Council shall develop a position description and budget for a "Per Capita Officer" to administer and coordinate the administration of this RAO for the benefit of individual Tribal members. At the minimum, such Per Capita Officer shall have a bachelor's degree in accounting or other similar professional license that demonstrates numerical and analytical competency in the investment area. The Per Capita Officer shall report to the Chief Financial Officer of the Tribe. The Per Capita Officer position description shall be filled by January 1, 2001.

(b) Financial Advisor. The Per Capita Officer shall, upon request of a Tribal member, arrange financial counseling or advice for a Tribal member in issues related to the expenditure of per capita funds.

§ 1613. Severability. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

If any section, or any part thereof, of this RAO or the application thereof to any party, person or entity or in any circumstances shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by the Department of the Interior, the remainder of the section or part of this RAO shall not be affected thereby and shall remain in full force and effect as though no section or part thereof has been declared to be invalid.

§ 1614. No Waiver of Sovereign Immunity. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

Nothing in this RAO shall provide or be interpreted to provide a waiver of the sovereign immunity from suit of the GTB or any of its governmental officers and/or agents.

§ 1615. Amendment or Repeal of Ordinance [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

(a) No amendments shall be authorized prior to December 3, 2005, changing the allocation in § 1605(a) of 50% of all net revenues for per capita benefits or changing the definition in § 1605(c) of "qualified

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Tribal members," without the consent of 60% of the registered voters of the GTB in a special election held for the purpose of authorizing such amendment or amendments.

(b) Prior to January 1, 2004, the Tribal Council shall prepare a comprehensive analysis and impact study of the benefits and detriments associated with per capita distributions. The Tribal Council shall then propose a new Revenue Allocation Ordinance, for implementation including a house-to-house membership survey, in the year 2005, that addresses the issues identified in the impact study.

(c) Beginning with the year 2000, this RAO shall be reviewed by a RAO Committee every five years to provide any further recommendations to the Tribal Council. The RAO Committee shall be comprised of at least seven members but not more than 12 Tribal members. The Committee will be formed at least six months prior to the due date of the recommendation to Tribal Council on the RAO Committee.

§ 1616. Effective Date. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

This RAO becomes effective under GTB Tribal Law upon adoption by the Tribal Council. Per capita payments to GTB Tribal members are subject to the approval of the Area Bureau Officer in accord with the Tribal Revenue Allocation Plans, Department of Interior regulations codified at 25 C.F.R. 290 et al., (April 17, 2000).

NOTE: Appendixes A through F, which were included in the Revenue Allocation Ordinance enacted May 31, 2000, as amended, are not reproduced in this Code. Copies may be obtained through the Grand Traverse Band Legal Department. These appendixes are titled: Appendix A, Trust Agreement February 18, 1998; Appendix B, IRS Private Letter Ruling, March 8, 2000; Appendix C, IRS Private Letter Ruling, November 17, 1998; Appendix D, Deferred Per Capita Benefit Plans, Plan A and Plan B; Appendix E, Procedures for Incarcerated Individuals; and Appendix F, Administrative Procedures for Per Capita Emergency Loans.

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SUBCHAPTER 2

(Reserved)

[History: Former Subchapter 2 - Administrative Trust Procedures Implementing § 1605(j) of the Revenue Allocation Ordinance - Adopted by Tribal Council by motion on October 15, 1996, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998, was NOT included in the revised Revenue Allocation Ordinance adopted by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

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Chapter 17
Labor Relations Ordinance

§ 1701. Labor Relations. [History: Labor Relations Ordinance adopted by Tribal Act #04-22.1466 enacted by Tribal Council on November 24, 2004.]

(a) No person shall be required, as a condition of employment on GTB lands, to:

(1) Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(2) Become or remain a member of a labor organization;

(3) Pay dues, fees, assessments or other charges of any kind or amount to a labor organization; or

(4) Pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

CROSS REFERENCE: This provision is also codified in 5 GTBC § 801 ("Tribal Government Officers and Employees" title).

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GRAND TRAVERSE BAND CODE

Title 18A

GAMING APPENDIX

APPENDIX to TITLE 18 Grand Traverse Band Code ("Gaming")

Appendix 1 - Compact Between the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan, Providing for the Conduct of Tribal Class III Gaming by the Grand Traverse Band of Ottawa and Chippewa Indians.

THIS COMPACT is made and entered into this 20th day of August, 1993, by and between the GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS (hereinafter referred to as "Tribe") and the STATE OF MICHIGAN (hereinafter referred to as "State").

RECITALS

WHEREAS, the State of Michigan is a sovereign State of the United States of America, having been admitted to the Union pursuant to the Act of January 26, ch. 6 1837, 5 Stat. 144 and is authorized by its constitution to enter into contracts and agreements, including this agreement with the Tribe; and

WHEREAS, the Tribe is a federally recognized Indian Tribe (reorganized under Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 984; 25 U.S.C. § 476) and its governing body, the Tribal Council, is authorized by the tribal constitution to enter into contracts and agreements of every description, including this agreement with the State; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act of 1988 (25 U.S.C. § 2701 et seq.) (hereinafter "IGRA"), which permits Indian tribes to operate Class III gaming activities on Indian reservations pursuant to a tribal-state compact entered into for that purpose; and

WHEREAS, the Tribe presently operates gaming establishments on Indian lands in the State of Michigan, and by Tribal Council Resolution and Tribal Ordinance has adopted rules and regulations governing the games played and related activities at said establishments; and

WHEREAS, the State presently permits and regulates various types of gaming within the State (but outside Indian lands), including casino style charitable gaming such as craps, roulette, and banking card games, as well as a lottery operating instant scratch games, and "pick number" games, most of which would be Class III games if conducted by the Tribe; and

WHEREAS, the Michigan Supreme Court in Automatic Music & Vending Corp. v. Liquor Control Comm., 426 Mich. 452, 396 N.W. 2d 204 (1986), appeal dismissed, 481 U.S. 1009 (1987), and the Michigan Court of Appeals in Primages Int'l of Michigan v. Michigan, No. 136017, slip op., 1993 WL 99733 (Mich. Ap. Apr. 6, 1993), appeal denied, No. 96368 (Mich. May 25, 1993), have held that the statutory exception found at MCL 750.303(2) allows for the play of electronic gaming devices, which includes computerized or electronic games of chance, albeit subject to specified restrictions regarding the mode of play; and

WHEREAS, said casino style table games and electronic gaming devices are, therefore, permitted "for any purpose by any person, organization or entity," within the meaning of IGRA, 25 U.S.C. § 2710(d)(1)(B); and

WHEREAS, a compact between the Tribe and the State for the conduct of Class III gaming satisfies the prerequisite, imposed by the United States Congress by enactment of IGRA, for the operation of lawful

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Class III gaming by the Tribe on Indian lands in Michigan; and

WHEREAS, the State and the Tribe, in recognition of the sovereign rights of each party and in a spirit of cooperation in the interests of the citizens of the State and the members of the Tribe, have engaged in good faith negotiations recognizing and respecting the interests of each party and have agreed to this Compact.

NOW, THEREFORE, the Tribe and the State agree as follows:

§ 1. Purposes and Objectives.

The purpose and objectives of the Tribe and State in making this Compact are as follows:

(A) To evidence the good will and cooperative spirit between the State and the Tribe;

(B) To continue the development of effective working relationships between the State and tribal governments;

(C) To compact for Class III gaming on Indian lands of the Tribe in Michigan as authorized by IGRA;

(D) To fulfill the purpose and intent of IGRA by providing for tribal gaming as a means of generating tribal revenues, thereby promoting tribal economic development, tribal self-sufficiency and strong tribal government;

(E) To provide tribal revenues to fund tribal government operations or programs, to provide for the general welfare of the Tribe and its members and for other purposes allowed under IGRA;

(F) To provide for the operation of Class III gaming in which, except as provided in 25 U.S.C. §§ 2710(b)(4) and (d)(2)(A) of IGRA, the Tribe shall have the sole proprietary interest and be the primary beneficiary of the Tribe's gaming enterprise;

(G) To recognize the State's interest in the establishment by the Tribe of rules for the regulation of Class III gaming operated by the Tribe on Indian lands;

(H) To recognize the State's interest in the establishment by the Tribe of rules and procedures for ensuring that Class III gaming is conducted fairly and honestly by the owners, operators, and employees and by the patrons of any Class III gaming enterprise of the Tribe; and

(I) To establish procedures to notify the patrons of the Tribe's Class III gaming establishment(s) that the establishment(s) are not regulated by the State of Michigan and that patrons must look to the tribal government or to the federal government to resolve any issues or disputes with respect to the operations of the establishment(s).

§ 2. Definitions.

For purposes of this Compact, the following definitions pertain:

(A) "Class III gaming" means all forms of gaming authorized by this Compact, which are neither Class I nor Class II gaming, as such terms are defined in §§ 2703(6) and (7) of IGRA. Only those Class III games authorized by this Compact may be played by the Tribe.

(B) "Indian lands" means:

(1) All lands currently within the limits of the Tribe's Reservation;

(2) Any lands contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988; and

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(3) Any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Tribe exercises governmental power.

(C) Notwithstanding subsection 2(B) above, any lands which the Tribe proposes to be taken into trust by the United States for purposes of locating a gaming establishment thereon shall be subject to the Governor's concurrence power, pursuant to 25 U.S.C. § 2719 or any successor provision of law.

(D) "Tribal Chairperson" means the duly elected Chairperson of the Board of Directors or Tribal Council of the Tribe.

§ 3. Authorized Class III Games.

(A) The Tribe may lawfully conduct the following Class III games on Indian lands:

(1) Craps and related dice games;

(2) Wheel games, including "Big Wheel" and related games;

(3) Roulette;

(4) Banking card games that are not otherwise treated as Class II gaming in Michigan pursuant to 25 U.S.C. § 2703(7)(C), and non-banking card games played by any Michigan tribe on or before May 1, 1988;

(5) Electronic games of chance featuring coin drop and payout as well as printed tabulations, whereby the software of the device predetermines the presence or lack of a winning combination and payout. Electronic games of chance are defined as a microprocessor-controlled electronic device which allows a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of a credit, and awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash; and

(6) Keno.

This Compact shall apply to card games that are considered to be Class II games pursuant to 25 U.S.C. § 2703(7)(C) only if those games are expanded beyond their "nature and scope" as it existed before May 1, 1988, and only to the extent of such expansion. The term "nature and scope" shall be interpreted consistent with IGRA, the legislative history of IGRA, any applicable decisions of the courts of the United States and any applicable regulations of the National Indian Gaming Commission.

Any limitations on the number of games operated or played, their location within Indian lands as defined under this Compact, hours or period of operation, limits on wagers or pot size, or other such limitations shall be determined by duly enacted tribal law or regulation. Any state law restrictions, limitations or regulation of such gaming shall not apply to Class III games conducted by the Tribe pursuant to this Compact.

(B) Additional Class III games may be lawfully conducted by mutual agreement of the Tribe and the State as follows:

(1) The Tribe shall request additional games by letter from the tribal Chairperson on behalf of the Tribe to the Governor on behalf of the State. The request shall identify the additional proposed

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gaming activities with specificity and any proposed amendments to the Tribe's regulatory ordinance.

(2) The State acting through the Governor shall take action on the Tribe's request within 90 days after receipt. The Governor's action shall be based on:

(a) Whether the proposed gaming activities are permitted in the State of Michigan for any purpose by any person, organization or entity; and

(b) Whether the provisions of this Compact are adequate to fulfill the policies and purposes set forth in the IGRA with respect to such additional games.

§ 4. Regulation of Class III Gaming.

(A) The Tribe has enacted a comprehensive gaming regulatory ordinance governing all aspects of the Tribe's gaming enterprise. This Section 4 is intended to supplement, rather than conflict with the provisions of the Tribe's ordinance. To the extent any regulatory requirement of this Compact is more stringent or restrictive than a parallel provision of the Tribe's ordinance, as now or hereafter amended, this Compact shall control.

(B) The regulatory requirements of this Section 4 shall apply to the conduct of all Class III gaming authorized by the Compact. At all times in which it conducts any Class III gaming under this Compact, the Tribe shall maintain, as part of its lawfully enacted ordinances, requirements at least as restrictive as those set forth herein.

(C) The Tribe shall license, operate, and regulate all Class III gaming activities pursuant to this Compact, tribal law, IGRA, and all other applicable federal law. This shall include but not be limited to the licensing of consultants (except legal counsel with a contract approved under 25 U.S.C. §§ 81 and/or 476), primary management officials, and key officials of each Class III gaming activity or operation. Any violation of this Compact, tribal law, IGRA, or other applicable federal law shall be corrected immediately by the Tribe.

(D) The Tribe may not license, hire, or employ as a key employee or primary management official as those terms are defined at 25 C.F.R. 502.14 and 502.19, in connection with Class III gaming, any person who:

(1) Is under the age of 18; or

(2) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation; or

(3) Has been convicted of or entered a plea of guilty or no contest to any offense not specified in subparagraph (2) within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, has been determined by the Tribe to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license as a key employee or primary management official; or

(4) Is determined by the Tribe to have participated in organized crime or unlawful gambling or whose prior activities, criminal record, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct

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of gaming.

(E) All management contracts entered into by the Tribe regarding its gaming enterprise operated pursuant to this Compact shall conform to all the requirements of IGRA, including 25 U.S.C. § 2711, and tribal law. If the Tribe enters into a management contract for the operation of any Class III gaming or component thereof, the State shall be given 14 days' prior written notice of such contract.

(F) All accounting records shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Tribe shall maintain the following records for not less than three years:

(1) Revenues, expenses, assets, liabilities and equity for each location at which Class III gaming is conducted;

(2) Daily cash transactions for each Class III game at each location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank;

(3) All markers, IOUs, returned checks, hold checks or other similar credit instruments;

(4) Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

(5) Contracts, correspondence and other transaction documents relating to all vendors and contractors;

(6) Records of all tribal gaming enforcement activities;

(7) Audits prepared by or on behalf of the Tribe; and

(8) Personnel information on all Class III gaming employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

(G) No person under the age of 18 may participate in any Class III game.

(H) The Tribe shall not conduct any Class III gaming outside of Indian lands.

(I) The rules of each Class III card game shall be posted in a prominent place in each card room and must designate:

(1) The maximum rake-off percentage, time buy-in or other fee charged;

(2) The number of raises allowed;

(3) The monetary limit of each raise;

(4) The amount of ante; and

(5) Other rules as may be necessary.

(J) Upon written request by the State, the Tribe will provide information on all consultants (except legal counsel with a contract approved under 25 U.S.C. §§ 81 and/or 476), management personnel, suppliers and employees sufficient to allow the State to conduct its own background investigation as it may deem necessary and to make an independent determination as to suitability of these

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individuals, consistent with the standards set forth in § 4(D) herein.

(K) The regulatory requirements set forth in this section of this Compact shall be administered and enforced as follows:

(1) The Tribe shall have responsibility to administer and enforce the regulatory requirements.

(2) A representative authorized in writing by the Governor of the State shall have the following right to inspect all tribal Class III gaming facilities and all tribal records related to Class III gaming, including those records set forth in § 4(F) herein, subject to the following conditions:

(a) With respect to public areas, at any time without prior notice;

(b) With respect to private areas not accessible to the public, at any time during normal business hours, with 12 hours' prior written notice; and

(c) With respect to inspection and copying of all tribal records relating to Class III gaming, with 48 hours' prior written notice, not including weekends.

(3) Except as otherwise provided by law or as also allowed by the exceptions defined below, the State agrees to maintain in confidence and never to disclose to any third party any financial information, proprietary ideas, plans, methods, data, development, inventions or other proprietary information regarding the gambling enterprise of the Tribe, games conducted by the Tribe, or the operation thereof which is provided to the State by the Tribe without the prior written approval of a duly authorized representative of the Tribe, provided that the information is marked as confidential information when received by the State. Nothing contained in this § 4(K)(3) shall be construed to prohibit:

(a) The furnishing of any information to a law enforcement or regulatory agency of the United States government;

(b) The State from making known the names of persons, firms or corporations conducting Class III gaming activities pursuant to the terms of this Compact, locations at which such activities are conducted or the dates on which such activities are conducted;

(c) Publishing the terms of this Compact;

(d) Disclosing information as necessary to audit, investigate, prosecute, or arbitrate violations of this Compact or other applicable laws or to defend suits against the State;

(e) Complying with any law, subpoena or court order.

(4) The Tribe shall have the right to inspect State records concerning all Class III gaming conducted by the Tribe consistent with Michigan's Freedom of Information Act.

(5) The Tribe shall reimburse the State for the actual costs the State incurs in carrying out any functions authorized by the terms of this Compact, in an amount not to exceed $25,000 per annum. All calculations of amounts due shall be based upon a fiscal year beginning October 1, and ending September 30, unless the parties select a different fiscal year. Payments due the State shall be made no later than 60 days after the beginning of each fiscal year. Payments due the State during any partial fiscal year this Compact is in effect shall be adjusted to reflect only that portion of the fiscal year. Within 60 days after each fiscal year in which this Compact is in effect, the State shall submit to the Tribe an accounting of actual costs incurred in carrying out any functions authorized by the terms of this Compact. Any amount of said $25,000 not

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expended by the State on said actual costs shall be returned to the Tribe by the State within 60 days after the fiscal year or treated as a pre-payment of the Tribe's obligation during the subsequent fiscal year.

(6) In the event the State believes that the Tribe is not administering and enforcing the regulatory requirements set forth herein, it may invoke the procedures set forth in Section 7 of this Compact.

(L) The Tribe shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311 — 5314.

§ 5. Employee Benefits.

The Tribe shall provide to any employee who is employed in conjunction with the operation of any gaming establishment at which Class III gaming activities are operated pursuant to this compact, such benefits to which the employee would be entitled by virtue of Michigan Public Act No. 1 of 1936, as amended (being MCL 421.1 et seq.), and Michigan Public Act No. 317 of 1969, as amended (being MCL 481.101 et seq.) if his or her employment services were provided to an employer engaged in a business enterprise which is subject to, and covered by, the respective Public Acts.

§ 6. Providers of Class III Gaming Equipment or Supplies.

(A) No Class III games of chance, gaming equipment or supplies may be purchased, leased or otherwise acquired by the Tribe unless the Class III equipment or supplies meet the technical equipment standards of either the State of Nevada or the State of New Jersey.

(B) Prior to entering into any lease or purchase agreement, the Tribe shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to permit the Tribe to conduct a background check on those persons. The Tribe shall not enter into any lease or purchase agreement for Class III gaming equipment or supplies with any person or entity if the lessor, seller, or any manager or person holding direct or indirect financial interest in the lessor/sellor or the proposed lease/purchase agreement, is determined to have participated in or have involvement with organized crime or has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation, or has been convicted of or entered a plea of guilty or no contest to any other felony offense within the immediately preceding five years, unless that person has been pardoned.

(C) The seller, lessor, manufacturer, or distributor shall provide, assemble and install all Class III games of chance, gaming equipment, and supplies in a manner approved and licensed by the Tribe.

§ 7. Dispute Resolution.

(A) In the event either party believes that the other party has failed to comply with or has otherwise breached any provision of this Compact, such party may invoke the following procedure:

(1) The party asserting noncompliance shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated and shall specify the factual and legal basis for the alleged noncompliance. The notice shall specifically identify the type of game or games, their location, and the date and time of the alleged noncompliance. Representatives of the State and Tribe shall thereafter meet within 30 days in an effort to resolve the dispute.

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(2) In the event an allegation by the State is not resolved to the satisfaction of the State within 90 days after service upon the office of the tribal Chairperson a notice to cease conduct of the particular game(s) or activities alleged by the State to be in noncompliance. Upon receipt of such notice, the Tribe may elect to stop the game(s) or activities specified in the notice or invoke arbitration and continue the game(s) or activities pending the results of arbitration. The Tribe shall act upon one of the foregoing options within 30 days of receipt of notice from the State. Any arbitration under this authority shall be conducted under the Commercial Arbitration rules of the American Arbitration Association except that the arbitrators shall be attorneys who are licensed members of the State Bar of Michigan, or of the bar of another state, in good standing, and will be selected by the State picking one arbitrator, the Tribe a second arbitrator, and the two so chosen shall pick a third arbitrator. If the third arbitrator is not chosen in this manner within 10 days after the second arbitrator is picked, the third arbitrator will be chosen in accordance with the rules of the American Arbitration Association. In the event an allegation by the Tribe is not resolved to the satisfaction of the Tribe within 90 days after service of the notice set forth in Section 7(A)(1), the Tribe may invoke arbitration as specified above.

(3) All parties shall bear their own costs of arbitration and attorney fees.

(B) Nothing in Section 7(A) shall be construed to waive, limit or restrict any remedy which is otherwise available to either party to enforce or resolve disputes concerning the provisions of this Compact. Nothing in this Compact shall be deemed a waiver of the Tribe's sovereign immunity. Nothing in this Compact shall be deemed a waiver of the State's sovereign immunity.

§ 8. Notice to Patrons.

In each facility of the Tribe where Class III gaming is conducted the Tribe shall post in a prominent position a Notice to Patrons at least two feet by three feet in dimension with the following language:

NOTICE
THIS FACILITY IS NOT REGULATED BY THE STATE OF MICHIGAN
THIS FACILITY IS REGULATED BY ONE OR MORE OF THE FOLLOWING: THE NATIONAL INDIAN GAMING COMMISSION, BUREAU OF INDIAN AFFAIRS OF THE U.S. DEPARTMENT OF THE INTERIOR AND THE GOVERNMENT OF THE GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

§ 9. Off-Reservation Gaming.

An application to take land in trust for gaming purposes pursuant to § 20 of IGRA (25 U.S.C. § 2719) shall not be submitted to the Secretary of the Interior in the absence of a prior written agreement between the Tribe and the State's other federally recognized Indian Tribes that provides for each of the other Tribes to share in the revenue of the off-reservation gaming facility that is the subject of the application.

§ 10. Regulation of the Sale of Alcoholic Beverages.

(A) The Tribe hereby adopts and applies to its tribal Class III gaming establishment as tribal law those State laws, as amended, relating to the sale and regulation of alcoholic beverages encompassing the following areas: sale to a minor; sale to a visibly intoxicated individual; sale of adulterated or misbranded liquor; hours of operation; and similar substantive provisions. Said tribal laws, which are defined by reference to the substantive areas of State laws referred to above, shall apply to the tribal Class III gaming establishment in the same manner and to the same extent as such laws apply

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elsewhere in the State to off-reservation transactions.

(B) The Tribe, for resale at its Class III gaming establishment, shall purchase spirits from the Michigan Liquor Control Commission, and beer and wine from distributors licensed by the Michigan Liquor Control Commission, at the same price and on the same basis that such beverages are purchased by Class C licensees.

§ 11. Effective Date.

This Compact shall be effective immediately upon:

(A) Endorsement by the Tribal Chairperson after approval by the Tribal Council;

(B) Endorsement by the Governor of the State and concurrence in that endorsement by resolution of the Michigan Legislature;

(C) Approval by the Secretary of the Interior of the United States; and

(D) Publication in the Federal Register.

§ 12. Binding Effect, Duration, and Severability.

(A) This Compact shall be binding upon the State and the Tribe for a term of 20 years from the date it becomes effective unless modified or terminated by written agreement of both parties.

(B) At least one year prior to the expiration of 20 years after the Compact becomes effective, and thereafter at least one year prior to the expiration of each subsequent five-year period, either party may serve written notice on the other of its right to renegotiate this Compact.

(C) In the event that either party gives written notice to the other of its right to negotiate this Compact pursuant to subsection (B), the Tribe may, pursuant to the procedures of IGRA, request the State to enter into negotiations for a successor compact governing the conduct of Class III gaming activities. If the parties are unable to conclude a successor compact, this Compact shall remain in full force and effect pending exhaustion of the administrative and judicial remedies set forth in IGRA and/or any other applicable federal law.

(D) The Tribe may operate Class III gaming only while this Compact or any renegotiated compact is in effect.

(E) In the event that any section or provision of this Compact is held invalid by any court of competent jurisdiction, it is the intent of the parties that the remaining sections or provisions of this Compact, and any amendments thereto, shall continue in full force and effect.

§ 13. Notice to Parties.

Unless otherwise indicated, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by first-class, certified or registered United States Mail, postage prepaid, return receipt requested, and sent to the other party at its address appearing below or such other address as any party shall hereinafter inform the other party hereto by written notice given as aforesaid:

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Notice to the Tribe shall be sent to:
Chairperson
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N.W. Bay Shore Drive
Suttons Bay, MI 49682

Notice to the State shall be sent to:

Governor's Office
State of Michigan
P.O. Box 30013
Lansing, MI 48909

Office of Attorney General
Treasury Building
First Floor
Lansing, MI 48922

Every notice, payment, request, report, information or demand so given shall be deemed effective upon receipt, or if mailed, upon receipt or the expiration of the third day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the party to whom said notice is addressed.

§ 14. Entire Agreement.

This Compact is the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter hereof. Neither this Compact nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the Tribe and the State.

§ 15. Filing of Compact with Secretary of State.

Upon the effective date of this Compact, a certified copy shall be filed by the Governor with the Michigan Secretary of State and a copy shall be transmitted to each house of the Michigan State Legislature and the Michigan Attorney General. Any subsequent amendment or modification of this Compact shall be filed with the Michigan Secretary of State.

IN WITNESS WHEREOF, the Tribal Chairperson acting for the Grand Traverse Band of Ottawa and Chippewa Indians and the Governor acting for the State of Michigan have hereunto set their hands and seals.

Dated	August 20, 1993	Dated	August 20, 1993
	GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS		STATE OF MICHIGAN
By	[signed]	By	[signed]
	Joseph Raphael, Chairperson		Governor

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APPROVAL BY THE SECRETARY OF THE INTERIOR.
The foregoing Compact between the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan is hereby approved this _____ day of _____, 1993, pursuant to authority conferred on me by Section 11 of the Indian Gaming Regulatory Act, 102 Stat. 2472. I direct that it be promptly submitted to the Federal Register for publication.

_____
Secretary of the Interior

Disposition List

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Title DL

DISPOSITION LIST

§ DL01. Disposition of legislation.

The following is a chronological listing of legislation included in the Grand Traverse Band Code since the 2007 republication of the Code. Information regarding legislation which is not included in the Code nor on this list is available from the Tribal offices.

Tribal Act Number	Adoption Date	Subject	Disposition	Supp. No./ Print Date
07-25.1784	6-20-2007	Justice: GTB Police Commission dissolved; Citizen Complaint Policy	Title 3, Chapters 6 and 8	1 4-5-2008
07-25.1832	8-15-2007	Children, families and elders: GTB Family Code amendment.	Title 10, Chapter 5	1 4-5-2008
07-25.1838	8-15-2007	Children, families and elders: GTB Family Code amendment	Title 10, Chapter 5	1 4-5-2008
07-25.1843	9-19-2007	Tribal Enrollment Ordinance amendment.	Title 7	3 10-1-2010
07-25.1851	9-26-2007	Public safety and regulation: Marina Operation Code.	Title 14, Chapter 10	1 4-5-2008
07-25.1853	9-26-2007	Tribal Enrollment Ordinance amendment.	Title 7	1 4-5-2008
07-25.1862	12-19-2007	Criminal offenses: GTB Domestic Violence Ordinance.	Title 9, Chapter 3	1 4-5-2008
07-25.1863	11-28-2007	Criminal offenses: Criminal Code amendment.	Title 9, Chapter 1	1 4-5-2008
08-26.1905	4-30-2008	Housing & property: residential lot assignment/lease amendment; leasehold mortgages amendment.	Title 13, Chapters 2 and 3	1 4-5-2008
08-26.1962	9-17-2008	Gaming: Revenue Allocation amendment.	Title 18, Chapter 16	6 5-1-2016
Special Session	10-29-2008	Conservation, ecology and hunting/fishing: Tribal implementation of 26. U.S.C. § 7873 amendment.	Title 8, Chapter 4	2 4-1-2009
08-26.1987	12-17-2008	Children, family and elders: Juvenile Code revisited amendment.	Title 10, Chapter 4	2 4-1-2009

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Tribal Act Number	Adoption Date	Subject	Disposition	Supp. No./ Print Date
08-26.1904	3-18-2009	Tribal services: Six County Area Service Guidelines.	Title 17, Chapter 2	3 10-1-2010
09-27.2125	10-28-2009	Gaming: Revenue Allocation amendment.	Title 18, Chapter 16	6 5-1-2016
09-27.2127	2-17-2010	Budget and financial operations: Internal Revenue Service Ordinance amendment.	Title 4, Chapter 4	3 10-1-2010
10-28.2164	7-21-2010	Criminal offenses: Sex Offender Registration Code.	Title 9, Chapter 4	3 10-1-2010
10-28.2207	7-21-2010	Criminal offenses: Criminal Code amendment.	Title 9, Chapter 1	3 10-1-2010
10-28.2198	8-18-2010	Tribal government officers and employees: GTB Code of Ethics amendment.	Title 5, Chapter 6	3 10-1-2010
11-29.2288	6-29-2011	Sovereign immunity: liquor seller liability for damage by intoxicated persons.	Title 6, Chapter 4	4 6-1-2012
Special Session	6-29-2011	Tribal services: Burial Fund Code amendment.	Title 17, Chapter 1	5 3-1-2013
11-29.2323	11-30-2011	Tribal administration: due process procedures amendment.	Title 2, Chapter 1	4 6-1-2012
11-29.2295	2-15-2012	Infrastructure: Cemetery Ordinance	Title 12, Chapter 11	4 6-1-2012
11-29.2313	2-15-2012	Commerce: Grand Traverse Band Tribal Limited Liability Company Code.	Title 15, Chapter 8	4 6-1-2012
12-30.2350	3-21-2012	Criminal offenses: Sex Offender Registration Code amendment.	Title 9, Chapter 4	4 6-1-2012
Motion	3-26-2014	Tribal services: Burial Fund Code amendment	Title 17, Chapter 1	6 5-1-2016
Motion	10-29-2014	Criminal offenses: Sex Offender Registration Code amendment.	Title 9, Chapter 4	6 5-1-2016
Motion	9-30-2015	Tribal administration: Grand Traverse Band Open Access to Meetings Act.	Title 2, Chapter 5	6 5-1-2016
Motion	9-30-2015	Justice: Office of Tribal Prosecutor amendment.	Title 3, Chapter 1	6 5-1-2016

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Tribal Act Number	Adoption Date	Subject	Disposition	Supp. No./ Print Date
15-33.2688	2-19-2016	Public safety and regulation: hazardous materials releases amendment	Title 14, Chapter 8	6 5-1-2016
Motion	5-25-2016	Tribal administration: Grand Traverse Band Open Access to Meetings Act amendment.	Title 2, Chapter 5	7 6-1-2018
Motion	7-27-2016	Children, families and elders: Children's Code Revised amendment.	Title 10, Chapter 1	7 6-1-2018
Motion	7-27-2016	Public safety and regulation: liquor control amendment.	Title 14, Chapter 4	7 6-1-2018
Motion	9-25-2016	Gaming: revenue allocation amendment	Title 18, Chapter 16	7 6-1-2018
Motion	8-16-2017	Public safety and regulation: Anti-Dumping Ordinance.	Title 14, Chapter 11	7 6-1-2018
Motion	8-30-2017	Public safety and regulation: Fire Code	Title 14, Chapter 2	7 6-1-2018
Motion	11-29-2017	Infrastructure: GTB Fiber	Title 12, Chapter 12	7 6-1-2018
Motion	12-20-2017	Children, families and elders: Juvenile Code Revised amendment.	Title 10, Chapter 4	7 6-1-2018
Motion	1-31-2018	Criminal offenses: Sex Offender Registration Code amendment.	Title 9, Chapter 4	7 6-1-2018
Motion	1-31-2018	Gaming: Gaming Ordinance; Gaming Commission; EDC Gaming Authority	Title 18, Chapters 1 through 3	8 11-2019
Motion	8-15-2018	Public safety and regulation: Marina Operation Code.	Title 14, Chapter 10	8 11-2019
Motion	10-31-2018	Criminal offenses: Domestic Violence Ordinance.	Title 9, Chapter 3	8 11-2019
Motion	12-19-2018	Criminal offenses: Domestic Violence Ordinance.	Title 9, Chapter 3	8 11-2019
Motion	5-29-2019	Criminal offenses: Crime Victims' Rights.	Title 9, Chapter 5	8 11-2019
Motion	6-19-2019	Public safety and regulation: Fire Code	Title 14, Chapter 2	8 11-2019
Motion	6-26-2019	Criminal offenses: Criminal Code amendment.	Title 9, Chapter 1	8 11-2019

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Tribal Act Number	Adoption Date	Subject	Disposition	Supp. No./ Print Date
19-37.3082	9-18-2019	Legislative branch: Legislative Procedures.	Title 1, Chapter 3	8 11-2019
Motion	11-20-2019	Criminal offenses: Domestic Violence Ordinance.	Title 9, Chapter 3	8 11-2019
19.37-3091	6-29-2019	Criminal offenses: Criminal Code amendment.	Title 9, Chapter 1	8 11-2019
20-38.3206	3-18-2020	Tribal Administration: Grand Traverse Band Emergency Meetings Act	Title 2, Chapter 6	9 4-2021
20-38.3219	4-15-2020	Tribal Administration: Grand Traverse Band Emergency Meetings Act	Title 2, Chapter 6	9 4-2021
	7-15-2020	Budget & Financial Operations: General Welfare	Title 4, Chapter 5	9 4-2021
20-38.3278	9-16-2020	Tribal Administration: Grand Traverse Band Emergency Meetings Act	Title 2, Chapter 6	9 4-2021
20-38.3291	10-28-2020	Commerce: Business Site Leasing	Title 15, Chapter 9	9 4-2021
	3-17-2021	Justice: Office of Tribal Prosecutor Amendment	Title 3, Chapter 1	9 4-2021
21-39.3331	4-28-2021	Sovereign Immunity: Sovereign Immunity Waiver Amendment; Waiver of Sovereign Immunity and Jurisdiction in Commercial Transactions Amendment	Title 6, Chapter 1; Title 6, Chapter 2	9 4-2021
21-39.3368	9-15-2021	Commerce: Marijuana	Title 15, Chapter 10	10 8-2023
22-40.3452	5-25-2022	Children, Families & Elders: GTB Family Code Amendment	Title 10, Chapter 5	10 8-2023
	10-26-2022	Justice: Personal Jurisdiction and Long-arm Jurisdiction Over Tribal Members Amendment	Title 3, Chapter 3	10 8-2023
23-41.3523	2-15-2023	Commerce: Marijuana Amendment	Title 15, Chapter 10	10 8-2023
23-41.3534	3-15-2023	Commerce: Marijuana Amendment	Title 15, Chapter 10	10 8-2023
23-41.3535	3-29-2023	Tribal Government Officers & Employees: Remote Work	Title 5, Chapter 9	10 8-2023

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