

Chapter 3. EDC Gaming Authority

§ 301. Purpose

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

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 establish 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

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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;
- (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

- (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

- (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.

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(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

(a) All revenue of a tribally-owned or tribally-operated gaming facility transferred by the 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;
- (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

(a) Any cash winning of an amount under \$25,000.00 shall be paid in cash or check by the gaming operation on the date it is won. A patron's winnings of any amount \$25,000.00 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

(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

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- (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 Section 308.
- (b) Drug Testing:
 - (1) An applicant for employment in position within an EDC gaming operation must submit to a drug and alcohol test as a condition of hire.
 - (A) Failure to 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.
 - (1) Failure or refusal to submit shall result in the immediate termination of employment.
 - (2) If the drug or alcohol test indicates the presence of alcohol or illegal drugs, the employee 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 one hundred and sixty-eight consecutive hours.
 - (2) Non-supervisory employees in casino, restaurant, lodging, and administrative divisions shall be paid one and one-half times their regular wage rate for time worked in excess of forty hours during a work week, unless exempt by subsection 3.10(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.

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- (4) Executive, administrative and professional employees, as defined herein, of EDC gaming operations are not entitled to overtime pay established by Section 3.10(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
 - (a) 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.
 - (b) The maximum wage payable to any non-exempt employee shall be five and one-half 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.