

**TITLE 18
GAMING**

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Chapter 1 - Gaming Ordinance**§ 101 - Findings; Purpose**

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 102 - Applicability

Unless specifically indicated otherwise, all provisions of this ordinance apply to all gaming activity within the Band's Indian lands.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 103 - Definitions

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;
 - (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.
- (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 fifty thousand dollars (\$50,000.00) 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 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).

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 104 - Gaming Authorized

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 105 - Ownership of Gaming; Regulatory Authority; Agent for Service

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 106 - Use of Net Gaming Revenues

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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 107 - Audits

- (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 twenty-five thousand dollars (\$25,000.00) 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 108 - Environment; Patron Dispute Resolution

- (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 two hundred dollars (\$200.00), 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 two hundred dollars (\$200.00) or more, but less than one thousand dollars (\$1,000.00), the gaming manager will resolve the matter within eight (8) hours, and that resolution will be final.
 - (3) If the disputed win is one thousand dollars (\$1,000.00) or more, the Tribal Commission will resolve the matter within thirty (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 109 – Licenses

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 110 - Application for Employee Gaming License

- (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 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 ten (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 conviction, if such criminal charge is within ten (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 111 – Fingerprints

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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 112 - Background Investigations

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 113 - Eligibility Determinations

- (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.
- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 114 - Notice of Results of Background Investigations

- (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 sixty (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 115 - Granting Gaming Licenses

- (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 thirty (30) days of issuance.

- (e) A gaming operation must not employ an individual as a primary management official or key employee if that individual does not have an employee gaming license within ninety (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 thirty (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 116 - Denying Gaming Licenses

- (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 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 117 - Gaming License Suspensions and Revocations

- (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 forty-five (45) days of receiving notification from the NIGC that a primary management official or key employee is not eligible for licensure.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 118 - Records Retention

- (a) The Gaming Commission must retain, for not less than three (3) 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 119 - Prohibited Acts Criminal Penalties

- (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;
- (19) Possess any illegal narcotics or controlled substances at any licensed gaming facility;
- (20) Assist a person who is less than eighteen (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 120 - Criminal Penalties

- (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 five thousand dollars (\$5,000.00) or imprisonment for up to one (1) year;
- (b) Each day or instance, as appropriate, of conduct under § 119(a) shall constitute a separate violation for purposes of criminal liability.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 121 - Civil Penalties

- (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 five thousand dollars (\$5,000.00) 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 122 - Referral to Tribal Prosecutor

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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 123 - Seizure and Forfeiture of Property

All property used or gained in violation of this code shall be subject to seizure and forfeiture by order of the Tribal Court.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 124 - Notice to Tribal Commission

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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

Chapter 2 - Gaming Commission

§ 201 - Findings; Purpose

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 202 - Establishment; Immunity

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 203 - Residency; Place of Business

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 204 - Assets; Credit

- (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.

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 205 - Membership; Non-Voting Membership; Vacancies

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 206 - Qualifications for Membership; Length of Service

- (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 eighteen (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 member's employment in a gaming operation.
 - (4) The person is employed by any gaming operation.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 207 - Removal

- (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 ten (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 208 - Meetings; Honorariums; Quorum; Voting

- (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.
- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 209 - Delegation of Authority

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;
- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 210 – Duties

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 ten (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 licensed gaming facility according to § 212 of this ordinance.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 211 - Regulatory Authority

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 212 - Right of Entrance; Monthly Inspections

- (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 (2) 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 213 – Investigations

- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 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 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;
- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 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.
- (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 305 - Use of Net Revenue

- (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;
 - (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 306 - Payouts; Bank Secrecy Act

- (a) Any cash winning of an amount under twenty-five thousand dollars (\$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 twenty-five thousand dollars (\$25,000.00) or greater shall be paid by check and within seventy-two (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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

§ 308 - Gaming Operation Standards

- (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 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 (7) consecutive twenty-four-hour periods or one hundred and sixty-eight (168) consecutive hours.
 - (2) Non-supervisory employees in casino, restaurant, lodging, and administrative divisions shall be paid one and one-half (1 1/2) times their regular wage rate for time worked in excess of forty (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 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.

History: Enacted by Tribal Council motion at a Tribal Council Special Session on January 31, 2018.

Chapters 4 through 13 – (Reserved)¹

Chapter 14 - Drug and Alcohol Testing

§ 1401 - Purpose

- (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.

¹ 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.

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.

§ 1402 - Drug and Alcohol Testing for Applicants

- (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.

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.

§ 1403 - Drug and Alcohol Testing for Employees

Employees shall be required to submit to drug and alcohol testing in accordance with the rules and regulations of the EDC.

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.

§ 1404 - Refusal of Testing

- (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.

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.

§ 1405 - Positive Test Results: Consequences

- (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.
- (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.

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.

§ 1406 - Procedures

The EDC shall develop procedures and forms consistent with this code.

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.

Chapter 15 - Labor Standards

§ 1501 - Establishment

- (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.

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.

§ 1502 - Overtime

The casino, restaurant, lodging and administration divisions of the EDC shall pay one and one-half (1 1/2) times the employee's regular rate for hours worked in a work week beyond forty (40) hours.

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.

§ 1503 - Forty-Hour Work Week

A work week consists of seven (7) consecutive twenty-four (24)-hour periods, i.e., one hundred and sixty-eight (168) consecutive hours, designated by the business needs of the respective divisions of the EDC.

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.

§ 1504 - Covered Employees

All regular hourly employees in a non-supervisor position shall be covered by § 1502.

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.

§ 1505 - Exempt Employees

- (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 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.

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.

§ 1506 - Minimum and Maximum Wages

- (a) The EDC shall comply with the minimum and maximum wage set by the Tribal Council.

- (b) The current minimum wage [March 1996] is six dollars an hour (\$6.00/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 two dollars an hour (\$2.00/hour).
- (d) The maximum wage is a multiple of five point five (5.5) times the minimum wage of six dollars an hour (\$6.00/hour).

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.

§ 1507 - Overtime Authorizations

Division managers shall develop appropriate chain of command policies for the authorization 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.

§ 1508 - Computation of Overtime

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.

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.

§ 1509 - Recordkeeping Enforcement

- (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.

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.

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

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 3/21/96; 8/21/96 [affirmed 9/6/96]; 12/16/97 [enacted 2/17/98]; 6/8/98; 11/17/98; and 4/28/99, 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.

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.

§ 1602 - Policy

- (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 twenty-one (21), twenty-two (22), twenty-three (23) and twenty-four (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 seventy-nine percent (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 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, 1994-1 C.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- (11-) month payment year of November 1, 2000 to September 30, 2001. The eleven- (11-) 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.

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.

§ 1603 - Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program

- (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 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, 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.

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.

§ 1604 - Use of Net Revenues; Tribal Economic Development

- (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: fifteen percent (15%) of net revenues from gaming revenue.
 - (1) The GTB EDC shall be charged with administering this fifteen percent (15%) allocation.
 - (2) The GTB EDC shall develop an Economic Development Plan for the expenditure of this fifteen percent (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.

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.

§ 1605 - Use of Net Revenues; Individual Per Capita Benefits

- (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 fifty percent (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 (5) 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 (5) 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 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 (1) 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 eighteen (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 nineteen (19), thirty-three percent (33%) of the then principal;
 - At age twenty (20), fifty percent (50%) of the then principal; and
 - At age twenty-one (21), the remaining assets of the trust.
- (i) Eligibility requirements for distributions at ages nineteen (19) and twenty (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 nineteen (19) but before reaching the age of twenty-one (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 twenty-one (21), the trust distribution shall be delayed until ages twenty-one (21), twenty-two (22), and twenty-three (23).
 - (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 twenty-one (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 two hundred fifty dollars (\$250) incurred by the beneficiary in any one (1) 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 (5) 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 4/1/00). In addition, at least three (3) 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 twenty-two and one-half (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 eighteen (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 (1) 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.
 - (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 fifteen (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.
- (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 (6) 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 (1) 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 twenty-five thousand dollars (\$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 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)

History: Revenue Allocation 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.

§ 1606 - Per Capita Distribution; General Welfare Doctrine

- (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.

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.

§ 1607 - Leveraging Per Capita Contingent Income

- (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 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.

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.

§ 1608 - Application of Generally Accepted Accounting Principles (GAAP)

- (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 gaming operation. The expenses of gaming operation must conform with

the average financial operation ratio of five (5) small cap public gaming companies as established by the annual reports of the public gaming companies.

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.

§ 1609 - Child Support Obligations

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.

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.

§ 1610 - Tribal Court Orders

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 (5) working days subsequent to distribution.

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.

§ 1611 - Distributions

- (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 (2) 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 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 (5) 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.

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.

§ 1612 - Per Capita Personnel

- (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.

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.

§ 1613 - Severability

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.

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.

§ 1614 - No Waiver of Sovereign Immunity

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.

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.

§ 1615 - Amendment or Repeal of Ordinance

- (a) No amendments shall be authorized prior to December 3, 2005, changing the allocation in § 1605(a) of fifty percent (50%) of all net revenues for per capita benefits or changing the definition in § 1605(c) of "qualified Tribal members," without the consent of sixty percent (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 (5) years to provide any further recommendations to the Tribal Council. The RAO Committee shall be comprised of at least seven (7) members but not more than twelve (12) Tribal members. The Committee will be formed at least six (6) months prior to the due date of the recommendation to Tribal Council on the RAO Committee.

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.

§ 1616 - Effective Date

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).

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.

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.

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.

Chapter 17 - Labor Relations Ordinance

§ 1701 - Labor Relations

- (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).

History: Labor Relations Ordinance adopted by Tribal Act #04-22.1466 enacted by Tribal Council on November 24, 2004.

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 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:

SECTION 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).

SECTION 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
 - (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.

SECTION 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 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.

SECTION 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 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 fourteen (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 (3) 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 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 twenty-five thousand dollars (\$25,000.00) 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 sixty (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 sixty (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 twenty-five thousand dollars (\$25,000.00) not expended by the State on said actual costs shall be returned to the Tribe by the State within sixty (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.

SECTION 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.

SECTION 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/seller 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.

SECTION 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 thirty (30) days in an effort to resolve the dispute.
 - (2) In the event an allegation by the State is not resolved to the satisfaction of the State within ninety (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 thirty (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 ten (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 ninety (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.

SECTION 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 (2) feet by three (3) feet in dimension with the following language:

NOTICE

**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.**

**THIS FACILITY IS NOT REGULATED BY THE
STATE OF MICHIGAN.**

SECTION 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.

SECTION 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 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.

SECTION 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.

SECTION 12. Binding Effect, Duration, and Severability

- (A) This Compact shall be binding upon the State and the Tribe for a term of twenty (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 twenty (20) years after the Compact becomes effective, and thereafter at least one year prior to the expiration of each subsequent five (5) 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.

SECTION 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:

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.

SECTION 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.

SECTION 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 -93

Dated August 20, 1993

GRAND TRAVERSE BAND OF STATE OF MICHIGAN
 OTTAWA AND CHIPPEWA INDIANS

By _____ [signed] _____ By _____ [signed] _____

Joseph Raphael, Chairperson

Governor

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