

**TITLE 18
GAMING**

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Chapter 1 - Findings, Purpose and Policy**§ 101 - Findings**

The Grand Traverse Band Tribal Council on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians finds that:

- (a) Tribal regulation and control of gaming activity within the jurisdiction of the Grand Traverse Band is essential for the protection of public health and welfare, and the interests of the Tribe and the residents and visitors to the Tribal community.
- (b) The Tribe has the legal authority to license and regulate any gaming activity within the jurisdiction of the Grand Traverse Band that is not specifically prohibited by federal law.
- (c) Properly licensed and regulated gaming activity conforms with announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.
- (d) It is essential that the Tribe, through its Tribal Council, regulate gaming in a manner commensurate with applicable federal and Tribal law and policy.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 102 - Purposes

The purposes of this code are to:

- (a) Regulate, control, and license the operation of all gaming within the jurisdiction of the Tribe.
- (b) Make clear and explicit that a Tribal license to operate a gaming activity is a revocable privilege, not a right or property interest.
- (c) Ensure that the operation of Tribally-regulated gaming will continue as a means of generating Tribal revenue.
- (d) Ensure that Tribally-regulated gaming is conducted fairly and honestly by both gaming operators and players, and that it remain free from corrupt, incompetent, unconscionable and dishonest persons and practices.
- (e) Ensure that Tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 103 - Tribal Gaming Policy

- (a) The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to Tribal and federal law and any Tribal-State compact entered pursuant to the Indian Gaming Regulatory Act [25 U.S.C. § 2701 et. seq.], and federal regulations promulgated under the authority of the Act [25 C.F.R. 501 et. al.], and that all revenue of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and Tribal law.
- (b) When operated in accordance with the provisions of this code, such gaming will be conducive to the general welfare of all residents of the Reservation and service area of the Tribe.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

Chapter 2 - Definitions**§ 201 - Definitions**

- (a) In this code, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.
 - (1) “Adjusted gross revenue” means gross revenue less all cash prizes or the aggregate price of merchandise prizes, except in the case of the games of draw poker and stud poker. Regarding games of draw poker and stud poker, “adjusted gross revenue” means the time buy-ins or tournament fees collected by the gaming operator.
 - (2) “Bingo” means the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of each card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip-jars, instant bingo and other games similar to bingo.
 - (3) “Cheating” means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself or someone in privity with him an advantage over and above the chance of the game.
 - (4) “Code” means this code, the Grand Traverse Band Gaming Code, as now or hereafter amended.

- (5) “Compact” means a gaming compact between the Tribe and the State of Michigan as authorized by the Indian Gaming Regulatory Act (IGRA), or by state or Tribal law.
- (6) “Compensation” means all wages, salaries, bonuses, and all other forms of enumeration for services rendered.
- (7) “Council” or “Tribal Council” means the governing body of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (8) “EDC” means the Grand Traverse Band Economic Development Corporation.
- (9) “Equipment for games of chance”. See “Gaming Apparatus.”
- (10) “Game or games of chance” mean any activity which falls within the broad definition of gaming or gaming activity.
- (11) “Gaming Commission Regulator” means that person employed by the Gaming Commission to perform the duties determining the suitability of issuing gaming licenses.
- (12) “Gaming employee” means any natural person employed in the operation or management of each gaming activity or operation, whether employed by or contracted to the Tribe or by any person or enterprise providing on or off-site services to the Tribe within or without the gaming facility regarding any gaming activity or operation, including, but not limited to, gaming managers and assistant managers; accounting personnel; surveillance personnel; security officers; cashier supervisors; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants; and any other natural person whose employment duties require or authorize access to restricted areas of each gaming activity or operation not otherwise opened to the public.
- (13) “Gaming” or “gaming activity” means any activity, operation or game in which valuable consideration is wagered upon the outcome determined in whole or in part by chance, skill, speed, strength or endurance or any combination of strength or endurance, and in which something of value is awarded to a person or persons so wagering, and any activity in furtherance thereof, including owning, financing, managing, participating in, conducting or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in person or off the Reservation.
- (14) “Gaming apparatus or gaming equipment” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gaming activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any gaming facility.

- (15) “Gaming facility” means any location or structure, stationary or movable, wherein gaming is permitted, promoted, performed, conducted, or operated. Gaming facility does not include the site of a fair, carnival, exposition, or similar occasion.
- (16) “Gaming Operation” means a facility which has been issued a gaming license under this code.
- (17) “Gaming Operator” means a party who has obtained a gaming license under this code and who owns, manages, or otherwise operates a gaming facility on tribal lands.
- (18) “Gross revenue” means any money collected or received from any gaming activity.
- (19) “Indian Gaming Regulatory Act” or “IGRA” means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. § 2701 et seq. (1988), as amended.
- (20) “Immediate family” means, with respect to the person under consideration, a husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.
- (21) “IRS” means the United States Internal Revenue Service.
- (22) “Key employee” means:
 - (A) Any person involved in gaming under this code and who comes within one or more of the following descriptions:
 - (i) Bingo caller;
 - (ii) Counting room supervisor;
 - (iii) Chief of security;
 - (iv) Custodian of gaming supplies or cash;
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Croupier;
 - (ix) Approver of credit;
 - (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices; or

- (xi) Employee or any other person with access to finance or accounting offices;
 - (B) If not otherwise included, any other person whose total cash compensation derived from gaming subject to this code is in excess of \$50,000 per year; or,
 - (C) If not otherwise included, the four most highly compensated persons in any gaming activity subject to this code; or
 - (D) Any employee whom the Tribal Commission may by written notice classify as a key employee.
- (23) “License” means any official, legal, and revocable permission granted by the Tribal Commission pursuant to this code to a gaming operator for the purposes of conducting any gaming operation on Tribal lands.
- (24) “Lotto” means a form of gaming in which all or a part of the revenue derived from the sale of tickets or chances are pooled and such revenue are allotted by chance to one or more chance takers or ticket purchasers. The amount of cash prizes or winnings are determined by the gaming operator conducting the “lottery” and a progressive pool is permitted. Tele-lottery means that the drawing is televised for use in a cable television broadcast.
- (25) “Net revenue” means adjusted gross revenue less expenses, fees, charges, and any other deductions as are specifically authorized under this Code.
- (26) “Participate” in any gaming activity means to operate, direct, finance or in any way assist in the establishment of or operation of any class of gaming or any site at which such gaming is being conducted, directly or indirectly, whether at the site in person or off the Reservation.
- (27) “Person” means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Tribe, any governmental entity of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe; provided, however, that the term does not include the federal government and any agency thereof.start here
- (28) “Player” means a person participating in any game, but does not include a gaming operator.
- (29) “Primary Management Official” means:
- (A) Any person who has authority:

- (i) to hire and fire gaming employees, or
 - (ii) to set up working policy for a gaming enterprise; or
 - (B) The chief financial officer or other person who has financial management responsibility for a gaming activity.
- (30) “Progressive gaming” means any game in which a cash prize which, not being won by any player during any game, is retained and further monetarily enhanced by the gaming operator or eligible organization, and offered as a prize to players in the next game.
- (31) “Pull-tabs, punch boards and tip jars” means any disposable card, board, ticket or display which accords the player an opportunity to win something of value by opening, pulling, detaching, or otherwise removing or uncovering tabs or covers from the card, board, ticket or display to reveal a set of numbers, letters, symbols, configurations, or combinations thereof which have been previously specified as a winning combination.
- (32) “Reservation” means all lands lying within the exterior boundaries of the townships set aside for the Grand Traverse Band of Ottawa and Chippewa Indians under the Treaty of Detroit July 31, 1855, Article I, clause fifth, 11 Stat. 691, in addition to any other lands acquired by the Band and placed into trust by the federal government via Executive Order, Act of Congress, or other federal action or decision.
- (33) “State” means the State of Michigan.
- (34) “Tribal Commission” means the Grand Traverse Band of Ottawa and Chippewa Indians Gaming Commission described in Chapter 4 of this code.
- (35) “Tribal lands” means:
- (A) all lands within the limits of the Grand Traverse Band Reservation, notwithstanding the issuance of any patent and including rights-of-way running through such lands; and
 - (B) all lands title to which is either held in trust by the United States for the benefit of the Tribe or individual member of the Tribe or held by the Tribe or individual member of the Tribe subject to restriction by the United States against alienation in over which the Tribe possesses governmental powers.
- (36) “Tribe” means and “Tribal” refers to the Grand Traverse Band of Ottawa and Chippewa Indians, a federally-recognized Indian tribe acting through the duly elected Tribal Council pursuant to the Tribal constitution and bylaws.

- (37) “Twenty-one”, also known as “blackjack”, means a card game played by a maximum of seven players and one dealer where each player plays his hand against the dealer’s hand, with the object of obtaining a higher total card value than the dealer by reaching 21 or as close to 21 as possible without exceeding that count. The cards have the following value:
- (A) Aces count either one or eleven, at the player’s option.
 - (B) Kings, queens, and jacks each have a count of ten.
 - (C) All other cards are counted at their face value.
- (38) “Wager” means the bet made or consideration or value given by a player in any game.

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 3 - General Provisions; Policy Background

§ 301 - Authority and Sovereign Powers and Responsibilities

- (a) This code is enacted pursuant to the inherent sovereign powers of the Tribe and the powers expressly delegated to the Tribal Council by Article IV of the Tribal Constitution.
- (b) The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation.
- (c) Such gaming shall be operated by the Grand Traverse Band Economic Development Corporation (“GTB/EDC”).
- (d) The regulation of such gaming shall be the responsibility of the Tribal Gaming Commission.

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.

§ 302 - Application of Federal Policy

In 1970 President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. Every U.S. President since 1970 has publicly proclaimed and encouraged the self-determination policy. At the heart of this policy is a commitment by the federal government to foster and encourage tribal self-government, economic development and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat.2203, 25 U.S.C. §§ 450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian policy statement, encouraged

tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor. The policy of self-governance has continued with amendments to P.L. 93-638 enacted as the Tribal Self-Governance Demonstration Project, P.L. 100-472 (1988).

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act (“IGRA”), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. § 2701, *et seq.* (1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming which is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

The federal commitment was furthered in 1988 by passage of the Indian Gaming Regulatory Act (“IGRA”), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. § 2701 *et seq.* (1988), through which the federal government recognized the inherent sovereign right of tribes to conduct and regulate gaming on their reservations and preempted state authority in the area of Indian gaming.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 303 - Grand Traverse Band Tribal Policy of Self-Government

The Tribe is firmly committed to the principle of Tribal self-government. Consistent with federal policy, Tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 304 - Title, Repeal of Prior Laws, and Effect of Repeal

- (a) This code may be cited as the Grand Traverse Band Gaming Code. The code shall be appropriately inserted into the Grand Traverse Band Tribal Code [Grand Traverse Band Code (G.T.B.C.)].
- (b) All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that pertain to gaming, and are in effect as of the effective date of this code, are hereby repealed, and all other Tribal laws or parts thereof, inconsistent with the provisions of this code are hereby repealed.
- (c) Repeal of this code or any portion thereof shall not have the effect of reviving any prior Tribal law theretofore repealed or suspended.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 305 - Classes of Gaming

There are three classes of gaming authorized on Indian lands under this code:

- (a) “Class I Gaming” means social gaming solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with Tribal ceremonies or celebration.
- (b) “Class II Gaming” means
 - (1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo;
 - (2) All card games operated by the Tribe prior to May 1, 1988; and
 - (3) All other card games explicitly authorized or not explicitly prohibited by the laws of the State and which are played at any location in the State, if played in conformity with State laws and regulations regarding hours or periods of operation of such card games or limitations on wagers or pot size in such card games.
- (c) “Class III Gaming” means all forms of gaming that are not Class I or Class II gaming.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 306 - Construction

In construing the provisions of this code, unless the context otherwise requires, the following rules shall apply:

- (a) This code shall be liberally construed to effect its purpose and to promote substantial justice.
- (b) Words in the present tense include the future and past tenses.
- (c) Words in the singular number include the plural, and words in the plural number include the singular.

- (d) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 307 - Savings Clause

If any section of this code is invalidated by a court of competent jurisdiction, the section is only invalidated for purposes of the litigated instant case and the remaining sections shall not be affected thereby.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

Chapter 4 - Tribal Gaming Commission

§ 401 - Establishment

The Tribe hereby charters, creates and establishes the Grand Traverse Band Gaming Commission (“Tribal Commission”) as a governmental subdivision of the Tribe and the primary regulator of tribal gaming operations.

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.

§ 402 - Location and Place of Business

- (a) The Tribal Commission shall be a resident of, and maintain its headquarters, principal place of business and offices on the Grand Traverse Band Reservation.
- (b) The Tribal Commission may, however, establish other places of business in such other locations as the Tribal Commission may from time to time determine to be in the best interest of the Tribe.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 403 - Duration

The Tribal Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribe pursuant to Tribal law.

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.

§ 404 - Attributes

- (a) As a governmental subdivision of the Tribe, the Tribal Commission has been delegated the right to regulate Tribal gaming pursuant to the IGRA and Tribal law.
- (b) It is the purpose and intent of the Tribe in creating the Tribal Commission that the regulatory activities of the Tribal Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members, and the residents of the Reservation.
- (c) In carrying out its purposes under this code, the Tribal Commission shall function as an instrumentality of the Tribe.
- (d) Notwithstanding any authority delegated to the Tribal Commission under this code, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Tribal Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights and interests of the Tribe or the Tribal Commission.

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.

§ 405 - Recognition as a Political Subdivision of the Tribe

The Tribe, on behalf of the Tribal Commission, shall take all necessary steps to acquire recognition of the Tribal Commission as a political subdivision of the Tribe, recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Grand Traverse Band of Ottawa and Chippewa Indians.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 406 - Sovereign Immunity of the Tribal Commission

- (a) The Tribal Commission is hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Title or other Tribal law, including sovereign immunity from suit in any state, federal or tribal court.
- (b) Except as provided in this section, nothing in this Title nor any action of the Tribe or the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Tribe or the Tribal Commission to any cause of

action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to suit in respect to any Indian land, or to be a consent of the Tribe or the Tribal Commission to the alienation, attachment or encumbrance of any such land.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 407 - Sovereign Immunity of the Tribe

- (a) All inherent sovereign rights of the Tribe as a federally-recognized Indian tribe with respect to the existence and activities of the Tribal Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court.
- (b) Except as provided in § 408 below, nothing in this code nor any action of the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Tribal Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe; or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment or encumbrance of any such land.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 408 - Waiver of Sovereign Immunity of the Tribal Commission

- (a) Sovereign immunity of the Tribal Commission may be waived only by express resolutions of both the Tribal Commission and the Tribal Council after consultation with the Tribe's attorneys.
- (b) All waivers of sovereign immunity must be preserved by resolutions of the Tribal Commission and the Tribal Council of continuing force and effect.
- (c) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal Commission.
- (d) Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribal Commission subject thereto, court having jurisdiction pursuant thereto and law applicable thereto.
- (e) Neither the power to sue and be sued provided in § 418(u), nor any express waiver of sovereign immunity by resolution of the Tribal Commission shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Tribal Commission other than property specifically pledged or assigned, or a consent to suit with respect to any land

within the exterior boundaries of the Reservation or a consent to the alienation, attachment or encumbrance of any such land.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 409 - Credit of the Tribe or Tribal Commission

Nothing in this code nor any activity of the Tribal Commission shall implicate or any way involve the credit of the Tribe or the Tribal Commission.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 410 - Assets of the Tribal Commission

- (a) The Tribal Commission shall have only those assets specifically assigned to it by the Council or acquired in its name by the Tribe or by the Tribal Commission on its own behalf.
- (b) The property of the Tribal Commission is declared to be public property used for essential public and governmental purposes and such property and the Tribal Commission are exempt from all taxes and special assessments of the Tribe.
- (c) Upon dissolution of the Tribal Commission, the title to all property owned by it shall vest in and become the property of the Tribe.
- (d) No activity of the Tribal Commission nor any indebtedness incurred by it shall implicate or in any way involve or effect any assets of Tribal members or the Tribe not assigned in writing to the Tribal Commission.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 411 - Membership

- (a) Number of Commissioners. The Tribal Commission shall be comprised of three (3) Tribal Gaming Commissioners consisting of two (2) Commissioners appointed by the Tribal Council and one Commissioner elected by the Tribe. A Gaming Commission Chief Regulation Officer ("CRO") shall be employed by the Gaming Commission and shall perform the duties determining the suitability of issuing gaming licenses as provided in Chapter 6 of this Code, and regulator functions as provided in § 415 of this Code.
- (b) Qualification of Commissioners.
 - (1) Each Commissioner must be a member of the Tribe.

- (2) No member of the Tribe may serve concurrently on the Tribal Commission and the Tribal Council, excluding *ex officio* participation as provided in § 413 of this Code.
 - (3) The Gaming Commission Regulator designated to determine suitability of employees must pass a written test, compiled by a recognized testing authority, to determine his knowledge of the Indian Gaming Regulatory Act, 25 C.F.R. 556 and 558, and this Gaming Code.
 - (4) The Gaming Commission CRO must demonstrate competency in the application of procedures and internal controls of the gaming facility. Such competency shall be demonstrated in accord with Subsections 411(d)(1) and 411(d)(2) herein.
- (c) Background Investigation. Prior to the time that any Tribal Commission member takes office on the Tribal Commission, the Tribe shall perform or arrange to have performed a comprehensive background investigation on each prospective member. No person shall serve as a Commissioner if:
- (1) The prospective member's prior activities, criminal record, if any, or reputation, habits or associations:
 - (A) Pose a threat to the public interest; or
 - (B) Threaten the effective regulation and control of gaming; or
 - (C) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming; or
 - (2) The prospective member has been convicted of or entered a plea of *nolo contendere* to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or
 - (3) The prospective member or any member of his immediate family has a financial interest in any gaming activity or facility.
 - (4) The prospective member cannot pass a credit check and does not have a certifiable history of credit worthiness from a credit agency for the last 10 years.
 - (5) The prospective member cannot pass a drug test as provided in Chapter 14 of this code (§ 1401 *et seq.*).
- (d) Date of Appointment. Commissioners shall take office no later than one week after appointment or election as provided in § 411(a) of this Code.
- (1) Each new Commissioner will receive the equivalent of eighty (80) hours of training within the first three months in office as a Commissioner. The training will consist of the application of this code, applicable federal law, and financial analysis necessary to control and manage the gaming facility.

- (2) Each new Commissioner will have six months from the date of their appointment to demonstrate their competence by successfully completing an open-book examination on the application of the code to their positions.
 - (A) Failure to pass the exam within the designated time period shall be construed as an automatic resignation from the Commission.
 - (B) Thereafter, the Commission shall progressively and aggressively develop the gaming expertise necessary to perform their job functions.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 412 - Term of Office

- (a) Each Commissioner shall serve a term of four (4) years, provided however, that one of the first two appointed Commissioners shall serve a two (2) year term and the other of the first two appointed Commissioners shall serve a three (3) year term, and all Commissioners appointed (or reappointed) thereafter shall serve four (4) year terms. The first Commissioner elected by the Tribe, as well as all elected (or re-elected) Commissioners thereafter, shall serve a four (4) year term.
- (b) No member shall serve more than two (2) terms.
- (c) No person shall remain on the Tribal Commission after leaving, or being removed by, the Tribal Council.

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.

§ 413 - Ex-Officio Members

At the direction of the Tribal Council, any member of the Tribal Council, any Tribal or Bureau of Indian Affairs employee or any other person may be designated to participate, without vote, in Tribal Commission meetings.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 414 - Meetings

- (a) Regular Meetings. The Tribal Commission shall hold at least one (1) regular monthly meeting which shall take place on the first Monday of each month, or as otherwise determined by the Tribal Commission.

- (b) Special Meetings. Special meetings may be called at the request of the Tribal Council, the Chairman of the Tribal Commission, or any one of the three (3) members of the Tribal Commission.
- (c) Compensation of Commissioners. An honorarium may be paid for attendance at each meeting.
- (d) Quorum. A quorum for all meetings shall consist of two (2) members.
- (e) Voting. All questions arising in connection with the action of the Tribal Commission shall be decided by majority vote.

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.

§ 415 - Organization

- (a) The Tribal Commission shall elect from within itself a Chairman to direct meetings, a reporter to be responsible for keeping Tribal Commission minutes and transmitting to the Tribal Council a copy of those minutes, handling correspondence and reporting Tribal Commission decisions, and such other officers as the Tribal Commission deems advisable.
- (b) The Tribal Gaming Commission shall consist of three (3) members, in accordance with § 411 of this code.
 - (1) The Gaming Commission Regulator shall be employed by the Commission as a Commission staff member.
- (c) The Tribal Commission shall carry out all functions of the Tribal Commission not specifically delegated to the Gaming Commission Regulator.
- (d) The Gaming Commission Regulator shall carry out the licensing authority conferred in § 418(p) of this title in accordance with § 603 of this title. The Gaming Commission Regulator shall carry out the regulator functions conferred in § 418(a) of this code in accordance with this § 415(c).
 - (1) Regulator. The Gaming Commission Regulator shall act as compliance regulator under the following guidelines. The Tribal Commission shall issue further guidelines and clarifications to the gaming facilities' gaming managers consistent with the following sections.
 - (A) Procedures shall consist of the interaction amongst various position descriptions carrying out the duties of the position in association with other position descriptions. The Tribal Commission shall consider and approve a system of procedures, to be developed by the EDC, for all regulated gaming activities.
 - (B) Internal Controls. The EDC shall propose a system of internal controls describing the position descriptions and procedures necessary to effect

appropriate internal controls. The Tribal Commission shall consider, approve and publish the procedures.

(C) Internal Auditor

- (i) The Gaming Commission Regulator shall employ an internal auditor who shall have the responsibility of determining compliance auditing with the published internal controls procedures and position descriptions.
- (ii) The internal auditor shall be an employee of the Tribal Commission reporting directly to the Gaming Commission Regulator on a monthly basis in accord with an audit schedule covering position descriptions, procedures, and internal controls.
- (iii) Audit findings shall be addressed in the following month by the Tribal Commission and the gaming manager.
- (iv) The gaming manager shall have thirty (30) days to comply with audit findings. A consistent pattern of noncompliance in excess of ninety (90) days shall be grounds for the Tribal Commission revoking gaming licenses of the employees responsible for the noncompliance.

History: Gaming Code adopted by Tribal Council on October 1, 1993; as amended by Tribal Council on April 22, 1997; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #02-20.1156, enacted by Tribal Council in Special Session on September 25, 2002.

§ 416 - Removal of Members or Vacancies

- (a) Removal. A Commissioner may be removed by the Council for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty or integrity of the Tribal Commission or otherwise violates the letter or intent of this code. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Council, and then only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing.
 - (1) At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf.
 - (2) If the Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Tribal Commission hearing procedures.
 - (3) A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary.

- (4) The decision of the Council upon the removal of a Commissioner shall be final for purposes of appeal. Review by the Tribal Court shall be conducted on a review of the record only.
- (b) Vacancies. If any Commissioner shall die, resign, be removed or for any reason be unable to serve as a Commissioner, the Council shall declare this position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this code.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 417 - Conflict of Interest

- (a) No person shall be appointed, elected or continue serving an existing term as a Commissioner if he has any personal, business, or legal relationship that creates a conflict of interest with his duties and responsibilities as a Commissioner.
 - (1) For purposes of conflict of interest, a “personal conflict of interest” shall be a family relationship within the first degree of consanguinity.
 - (2) For purposes of conflict of interest, a “business conflict of interest” shall be a business relationship that directly competes with the gaming facilities’ markets. Direct competition shall be defined as a business relationship within a 200-mile radius of the gaming facility.
 - (3) For purposes of conflict of interest, a “legal conflict of interest” shall be a relationship recognized as a conflict by a panel of three consisting of two attorneys and one non-attorney. The panel shall be *ad hoc* and formed for the sole basis of addressing the alleged legal conflict of interest. The Commissioner who is alleged to be in a legal conflict of interest shall have the opportunity to appoint one person to the panel. The Tribal Council shall appoint the other two panel members.
 - (4) The charge of an alleged conflict of interest can only be raised by a Tribal member or an interested party with a direct financial interest in the resolution of the charge. General allegations by persons without a financial interest will not be reviewed.
 - (5) If the Commissioner is found to be in a conflict of interest by the panel, then the Commissioner shall withdraw from the matter before the Tribal Commission, and the Commission shall pay all costs of the person bringing the charge. If the Commissioner is found not to be in a conflict of interest by the panel, then the person bringing the charge shall pay all costs of the Tribal Commission proceeding.
- (b) To the extent permitted by law, a personal, business, or legal conflict of interest can be waived by majority vote of the Tribal Council only after full, complete and continuing disclosure is made by the Commissioner in the alleged conflict of interest.

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.

§ 418 - Authority of Tribal Commission

The Tribal Commission shall have the following authority:

- (a) To regulate all day-to-day gaming activity within the jurisdiction of the Tribe.
- (b) To promote the full and proper enforcement of all Tribal civil and criminal gaming laws and policies.
- (c) To issue *subpoena ad testificandum* and *subpoena duces tecum*.
- (d) To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as the Tribal Commission may deem necessary and proper to effectuate the powers granted by this code and the powers granted and duties imposed by applicable law.
- (e) To publish and distribute copies of this code and Tribal Commission rules and any Council, Tribal Commission or Tribal Court decisions regarding gaming matters.
- (f) To prepare and submit for Council approval proposals, including budget and monetary proposals, which could enable the Tribe to better carry forth the policies and intent of this code.
- (g) To work with the staff of any Tribal department, program, project, or operation and to cooperate with the Tribal Council or any Council Committee in regard to gaming issues.
- (h) To make or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any game or gaming activity operating, or suspected of operating, within the jurisdiction of the Tribe. In undertaking such examination or investigation, the Tribal Commission may request the assistance of Tribal gaming staff, federal and local law officials, legal counsel, and other third parties.
- (i) To maintain and keep current a record of new developments in the area of Indian gaming.
- (j) To request the assistance of the Tribe's Legal Department in conducting gaming hearings, defining terms used in this code or other Tribal laws, or in any other matter in which the Tribal Commission deems such assistance to be necessary or proper.
- (k) To consider any gaming matter brought before it by any person, organization or business, and all matters referred to it by the Tribal Council.
- (l) To obtain and publish a summary of federal revenue laws relating to gaming and to insure compliance with same.

- (m) To arrange for training of Tribal Commission members and Tribal Commission employees in areas relating to the regulation of gaming.
- (n) To employ such advisors as it may deem necessary, advisors may include, but shall not be limited to, law enforcement specialists and gaming professionals, the Tribe's Legal Department and the Tribe's Accounting Department.
- (o) To promulgate rules and regulations, consistent with the Tribal Commission's regulatory responsibilities, to implement and further the provisions of this code.
- (p) To approve or disapprove any application for a Tribal gaming license.
- (q) To examine under oath, either orally or in writing, in hearings or otherwise, any person or agent, officer or employee of any person, or any other witness, with respect to any matters related to this code, including enforcement of Tribal gaming laws, regulations and policies, and to compel by subpoena the attendance of witnesses and the production of any books, records and papers with respect thereto.
- (r) When necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement and government officials and agencies, and private parties, in exercising its powers and carrying out its responsibilities.
- (s) To delegate to an individual member or members of the Tribal Commission, or, with the approval of the Tribal Council, to Tribal or Tribal Commission staff, such of its functions as may be necessary to administer this code efficiently, provided, that the Tribal Commission may not re-delegate its power to exercise any substantial governmental function of the Tribe or its power to promulgate rules and regulations, and provided further, that the Tribal Commission may not delegate to anyone the power to permanently revoke a Tribal gaming license.
- (t) To close permanently, after notice and a hearing, any game or games which are operating in violation of Tribal law.
- (u) To sue in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this code and other Tribal laws, provided, that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council.
- (v) To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein, provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Tribal Council as to each such action, and title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

- (w) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property, assets and revenues.
- (x) To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities.
- (y) To enter into, make, perform and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state or local governmental agency, tribe, person, partnership, corporation or other association or entity for any lawful purpose pertaining to the business of the Tribal Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Commission.
- (z) To exercise the Tribal power to tax authorized by the Grand Traverse Band Tribal Constitution in accordance with a Tribal Council resolution delegating such power to the Tribal Commission and in accordance with this code and other applicable law.
- (aa) To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this code as permitted by the purposes and powers herein stated and which are deemed to be in the best interests of the Tribe, exercising prudent regulatory structures and administrative law, all in compliance with applicable law.
- (bb) To establish and maintain such bank accounts as may be necessary or convenient.
- (cc) To require by regulation, the filing of any records, forms and reports and all other information desired by the Tribal Council for implementation of this code relating to any gaming activity or operation or any investigation as required by Tribal law and the IGRA.
- (dd) To provide for an internal system of recordkeeping with adequate safeguards for preserving confidentiality as deemed necessary by the Tribal Commission. All applications, background investigations and Tribal Commission decisions shall be retained in Tribal Commission files for a period of at least ten (10) years.
- (ee) To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this code.
- (ff) To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files and records.
- (gg) To inspect and regulate all gaming activities within the jurisdiction of the Tribe.
- (hh) To promote the full and proper enforcement of this code and other applicable law regarding gaming activities within the jurisdiction of the Tribe.
- (ii) To conduct background investigations of all persons who propose to participate in any gaming activity or operation.

- (jj) To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court or any other court having jurisdiction over the parties and of the subject matter; provided, that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council after consultation with the Tribe's Legal Department.
- (kk) To discipline any licensee or other person participating in any gaming activity by ordering immediate compliance with this code or Tribal Commission regulations and to issue an order of temporary suspension of any license issued under this code, whenever the Tribal Commission is notified of a violation by any such person of this code or any other applicable law.
- (ll) To issue an order of temporary closure of any gaming activity or operation in the event the Tribal Commission determines that immediate closure is necessary to protect assets or interests of the Tribe, pursuant to Tribal Commission regulations, or whenever the Tribal Commission shall receive information from the National Indian Gaming Commission that a primary management official or key employee of a licensee does not meet the standards for being licensed under the IGRA.
- (mm) To become self-regulating whenever the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

History: Gaming Code adopted by Tribal Council on October 1, 1993; as amended by Tribal Council on April 22, 1997; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #02-20.1141, enacted by Tribal Council on August 21, 2002.

§ 419 - Annual Budget

The Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Council by August 15th of each year.

- (a) The request under the GTB Appropriations Act shall be subject to the Tribal budgeting process.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 420 - Tribal Commission Regulations

- (a) The Tribal Commission regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to, the following:
 - (1) Internal operational procedures of the Tribal Commission and its staff;
 - (2) Interpretation and application of this code as may be necessary to carry out the Tribal Commission's duties and exercise its powers;

- (3) A regulatory system for all gaming activity, including accounting, contracting, licensing and suspension of licenses;
 - (4) The findings of any reports or other information required by or necessary to implement this code; and
 - (5) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Tribal Commission authorized by this code.
- (b) No regulation of the Tribal Commission shall be of any force or effect unless it is adopted by the Tribal Commission by written resolution and subsequently approved 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 Tribal Commission regulations adopted pursuant to this code and the Tribal Commission shall provide all courts of competent jurisdiction copies of properly enacted Commission regulations.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 421 - Right of Entrance; Monthly Inspection

- (a) The Tribal Commission and duly authorized officers and employees of the Tribal Commission, during regular business hours, may enter upon any premises of any gaming operator or gaming establishment for the purpose of making inspections and examining the accounts, books, papers, and documents, of any such gaming operator or gaming establishment. Such gaming operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Commission and to any properly authorized officer or employee.
- (b) A Commissioner or a member of the Tribal Commission's staff shall visit each Tribally-owned or Tribally-operated gaming establishment at least once every two weeks during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 422 - Investigations

- (a) The Tribal Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any person who is subject to the provisions of this code.

- (b) In conducting such investigation, the Tribal Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Commission regulations.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 423 - Hearings; Examiner

- (a) Pursuant to regulations, the Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this code. Whenever it shall appear to the satisfaction of the Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Commission may issue its order without a hearing.
- (b) The Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Tribal Commission may appoint another person to act as examiner under § 424 below. The Tribal Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Commission.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 424 - Appointment of Examiner; Power of Examiner

- (a) The Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Commission, or any member thereof, has power or authority to hold.
- (b) Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this code with respect to any such hearing.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

Chapter 5 - Economic Development Corporation

§ 501 - Purpose; Recognition of EDC Powers

- (a) The purpose of this chapter is to authorize the Economic Development Corporation (EDC) to conduct certain activities in line with its role as gaming operator under § 301(c) of this code.

- (b) The purposes, powers, authorities, and sovereign immunities of the EDC, as set out in its tribally- and federally-approved charter, are hereby incorporated by reference into the gaming 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.

§ 502 - Authorities of the EDC as Gaming Operator

- (a) Policy. The EDC shall, consistent with Tribal Council policy as articulated in the gaming code, issue policy statements regarding the operation of gaming.
- (b) Procedures. Consistent with § 415(d)(1)(A) of this code, the EDC shall develop a system of procedures for all regulated gaming activities and submit the proposed system to the Tribal Gaming Commission for consideration and approval.
- (c) Internal Controls. Consistent with § 415(d)(1)(B) of this code, the EDC shall propose a system of internal controls describing the position descriptions and procedures necessary to effect appropriate internal controls. The proposed system shall then be submitted to the Tribal Gaming Commission for consideration, approval and publication.
- (d) Personnel and Company Policy. The EDC shall develop personnel and company policies for its gaming operations and employees.
- (e) Gaming Laws and Policy. The EDC shall consult with, and make recommendations to, the Tribal Council regarding changes in Tribal gaming laws and policies.
- (f) The EDC is authorized, for the purposes of the gaming code, 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, improvement, letters patent and applications therefor, trademarks and applications therefore, and trade names, provided that title to all such interests shall be taken in the name of the Band.
- (g) With the prior permission of the Tribal Council, the EDC may, for purposes of the gaming code, borrow money and make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees and other obligations of the EDC for moneys borrowed, or in payment for property acquired or for any of the purposes of the EDC and secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement or other instrument of trust or by lien upon, assignment of, or agreement in regard to all or any part of the property, assets and revenues of the EDC.
- (h) Dispute Resolution. The EDC is authorized to arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the EDC's activities under this code.

- (i) **Business Associations.** The EDC is authorized to enter into, make, perform and carry out any agreement, partnership, joint venture contract 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 the business of the EDC or which is necessary or incidental to the accomplishment of the purposes of the EDC under this code.
- (j) **Taxing Authority.** The EDC may exercise the Tribal power to tax, as authorized by the Grand Traverse Band Tribal Constitution, in accordance with a Tribal Council resolution delegating such power to the EDC and in accordance with this code and other applicable law.
- (k) **Insurance.** The EDC is authorized, as gaming operator, to purchase insurance from any stock or mutual company for any property, or against any risk or hazard.
- (l) **Grants.** The EDC may, with prior approval of the Tribal Council, make application for, and accept, grants and other awards from private and public sources in carrying out or furthering the purposes of the EDC.
- (m) **General Powers.** The EDC shall exercise all authority delegated to it or conferred upon it by law and shall take all action which shall be reasonably necessary and proper for executing the foregoing powers and any other authorities vested in this code, and which is deemed to be in the best interests of the Band.
- (n) **Bank accounts.** The EDC, as gaming operator, is hereby authorized to establish and maintain such bank accounts as may be necessary or convenient.
- (o) **Surveillance Activities.** The EDC, as gaming operator, is authorized to operate surveillance activities for the gaming operations. The objectives of said surveillance activities include reporting information concerning compliance on the part of gaming customers and gaming employees with established Tribal and federal rules and regulations.

History: Gaming Code adopted by Tribal Council on October 1, 1993; as amended by Tribal Council on April 22, 1997; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #02-20.1156, enacted by Tribal Council in Special Session on September 25, 2002.

§ 503 - 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 (*see* 4 GTBC Chapter 1) shall be subject to the Tribal budgeting process.

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 6 - Gaming Licenses**§ 601 - Applicability**

- (a) This code governs all persons engaged or employed in gaming within the jurisdiction of the Tribe.
- (b) Any application for license pursuant to this code or participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this code or other Tribal laws.

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.

§ 602 - License Required

- (a) No person shall operate Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is licensed by the Tribe.
- (b) A separate Tribal gaming license shall be obtained for each game authorized by Chapter 10.
- (c) The decision to grant, revoke or decline to renew a license shall be final and not subject to appeal.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 603 - Types of Licenses

The Tribe shall issue each of the following types of gaming licenses:

- (a) Tribally-Owned or Tribally-Operated Class II. This license shall be required of all Tribally-owned or Tribally-operated gaming activity operating one or more Class II games of chance.
- (b) Tribally-Owned or Tribally-Operated Class III.-Owned or Tribally-Operated Class III. This license shall be required for all Tribally-owned or Tribally-operated gaming activity operating any games of chance other than Class I or Class II gaming.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 604 - No License Requirement for Class I Gaming

A Tribal license shall not be required for any Class I gaming activity or operation, provided, however, that each Class I gaming activity or operation must have written permission of the Tribal Commission, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 605 - Application Procedures

- (a) Application for Gaming License. For any proposed Class II or Class III gaming activity, the Tribal Council or its delegate (GTB/EDC) shall file with the Tribal Commission an application for a Tribally-owned or Tribally operated Class II or Class III gaming license, whichever is appropriate, which shall contain the name of the proposed enterprise, its location and all other pertinent information required by this code and Tribal Commission regulations.
- (b) Tribally-Owned and Tribally-Operated Class II.-Owned and Tribally-Operated Class II. Before issuing a license to a Tribally-owned or operated Class II gaming activity the Tribal Commission shall:
 - (1) Review the proposed gaming activity to ensure that all criteria required by this code shall be met.
 - (2) Perform the necessary background investigations on primary management officials and key employees required by this code.
 - (3) Review and approve the accounting procedures to be used in such gaming activity.
 - (4) Take any additional steps necessary to ensure the integrity of such gaming activity.
- (c) Tribally-Owned and Tribally-Operated Class III.-Owned and Tribally-Operated Class III. Before issuing a license to a Tribally-owned or Tribally-operated Class III gaming activity the Tribal Commission shall:
 - (1) Review the proposed gaming activity to ensure that all criteria required by this code shall be met.
 - (2) Perform the necessary background investigations on primary management officials and key employees required by this code.
 - (3) Review and approve the accounting procedures to be used in such gaming activity.
 - (4) Take any additional steps necessary to ensure the integrity of such gaming activity.

- (5) Review all aspects of the proposed gaming operation to ensure that it will be in compliance with the provisions of the applicable tribal/state compact.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 606 - Criteria Which a Potential Gaming Operation Must Meet

The Tribal Commission shall only issue the above license to a Tribally-owned or Tribally-operated Class II or Class III proposed gaming operation only if all of the following criteria are met:

- (a) The proposed gaming operation or facility is to be located on land which was held in trust for the Tribe prior to October 17, 1988 or on trust lands which were located within or contiguous to the boundaries of the Reservation on October 17, 1988 or on lands taken into trust after October 17, 1988, as part of a settlement of a land claim; or the proposed gaming activity is on land acquired in trust prior to November 30, 1993 and subject to Section 2(B)(3) and Section 3 of the Grand Traverse Band/State of Michigan gaming compact and 25 U.S.C. § 2710(d)(1) of the Indian Gaming Regulatory Act.
- (b) The proposed gaming operation is to be played as Class II gaming as defined by this code and the IGRA or is Class III gaming authorized by a tribal/state gaming compact.
- (c) The proposed gaming operation is authorized by a Tribal Council resolution.
- (d) The Tribe will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of the proposed gaming operation consistent with Tribal and federal law.
- (e) The resolution authorizing the proposed gaming operation provides that:
 - (1) The revenues of the proposed gaming operation shall be audited annually and copies of those audits will be provided to the Tribal Commission and the National Indian Gaming Commission.
 - (2) The proposed gaming operation shall comply with all IRS reporting and filing requirements.
 - (3) All of the revenue of the proposed gaming operation shall be used for the purposes stated in § 1603.
 - (4) All contracts for supplies services or concessions for an amount in excess of \$25,000 annually, except contracts for legal and accounting services, shall be subject to an annual independent audit.
 - (5) The construction or maintenance of the gaming facility and the operation of the proposed gaming operation shall be conducted in a manner which the Tribal

Commission finds will adequately protect the environment and the public health and safety.

- (6) The gaming manager, all primary management officials, and all key employees have passed the background investigations and obtained the Tribal gaming employee licenses required by this code. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain Tribal gaming employee licenses before they are hired.
- (7) The Tribal Commission shall have the authority to regulate the proposed gaming operation.
- (8) The proposed gaming operation shall pay to the National Indian Gaming Commission such fees as federal law may require to be paid.
- (9) If the gaming operation is Class III gaming, such gaming operation meets all other criteria established by the tribal/state compact.

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.

§ 607 - License Application Fees

No application fee shall be required for a Tribally-owned or Tribally-operated Class II or Class III gaming operation.

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.

§ 608 - License Tax

No annual license tax shall be required for a Tribally-owned or Tribally-operated Class II or Class III gaming operation.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 609 - Form of Gaming License

Every gaming license issued by the Tribal Commission shall include the name and address of the authorized licensee and the signature of an authorized officer of the Tribal Commission.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 610 - Scope of Gaming License

- (a) A gaming license issued by the Tribal Commission shall be effective only for the gaming operation and location specified in the application.
- (b) Such license may be transferred only upon prior approval of the Tribal Commission upon written request that details the proposed new gaming operation, its location and proposed gaming operator.

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.

§ 611 - Terms of License

A Tribally-owned and Tribally-operated Class II and Class III gaming license shall be valid for a period of one year from the date of issuance or, if the Tribal Commission takes no action on the license after one (1) year from issuance, such license shall be valid until the Tribal Commission takes action to renew, suspend, terminate, or otherwise take action on such license.

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.

§ 612 - Posting of Licenses

- (a) Each gaming operator shall post its Tribal gaming license in a conspicuous location at the gaming operator's gaming facility.
- (b) If a gaming operator has more than one gaming facility, the gaming operator must obtain and post a separate license for each gaming facility.
- (c) A gaming operator licensed to sell raffle tickets outside a gaming facility shall carry a copy of the gaming license in which such person is employed.

History: Gaming Code adopted by Tribal Council on October 1, 1993, as amended by Tribal Council on April 22, 1997.

§ 613 - Gaming License Renewals

- (a) Each Tribal gaming license must be renewed every year.
- (b) No renewal fee shall be required for a Tribally-owned or Tribally-operated Class II or Class III license.

- (c) In order to obtain a renewal of a license, the gaming operator shall submit a written renewal application to the Tribal Commission on the form provided by the Tribal Commission.
- (d) No renewal application shall be approved until the annual report, required by § 614, has been properly filed.
- (e) All renewal applications submitted by a Tribally-owned Class II or Class III gaming operation shall be approved within a reasonable time unless the Gaming Commission determines, based on reasonable grounds, that the enterprise has been or will be operated in violation of Tribal, federal or other applicable law or the terms of the tribal/state compact.

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.

§ 614 - Annual Reports

- (a) Each gaming operator who possesses a Class II or Class III Tribal gaming license must file an annual report with the Tribal Commission and the Tribal Council between the 1st and 21st day of the 11th month of the 12 month duration of each such license.
- (b) The report shall be submitted to the Tribal Commission on the annual report form provided by the Tribal Commission and shall include the following information:
 - (1) The name, address and telephone number of the gaming operator;
 - (2) The names, addresses and titles of its current gaming managers and all submanagers;
 - (3) A description of each gaming operation that is operated and the total gross revenue of each from the last twelve (12) months, or from the date of the last report being submitted, whichever is longer;
 - (4) A written copy of any changes the gaming operator proposes to initiate in its rules;
 - (5) A statement of the specific dates and times during which the gaming operation will be operated during the next license period;
 - (6) The name and address of the person who will be the gaming manager and the names and addresses of all persons who will be the primary management officials during the next license period;
 - (7) A statement of any changes in the gaming manager or in the primary management officials or key employees who will operate the gaming operation over the next license period;

- (8) The names and addresses of any employees whom the Tribal Commission may determine to be key employees during review of the application;
- (9) Written proof that the gaming operator has paid to the National Indian Gaming Commission such fees as federal and Tribal law may require it to pay and will continue to do so;
- (10) A sworn statement that the gaming operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the gaming operator shall continue to obey all Tribal and federal laws and shall hold the Tribal Commission and the Tribe harmless for failure to do so;
- (11) The description of any location at which the gaming operation has been conducted and any new location which is expected to be established during the next license period;
- (12) The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past twelve (12) months or from the date of the last report being submitted - whichever is longer, together with a projection of the number of full-time equivalent people who are expected to be employed during the next license period;
- (13) The total gross revenue of the gaming operator attributable directly or indirectly to Tribally-licensed gaming operation over the proceeding twelve (12) months, or from the date of the last report being submitted, whichever is longer;
- (14) A sworn statement that the gaming operator will continue to comply with all Tribal and federal laws applicable to the gaming operator's gaming operation;
- (15) A sworn statement that the gaming operator and all of its management officials and employees continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of Tribally-licensed gaming activity;
- (16) The name, address and signature of the agent who will accept service of process on behalf of the gaming operator, who must reside on the Reservation; and
- (17) If the gaming operator is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy has already been filed with the Tribal Commission.

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.

§ 615 - Procedure to Remedy Gaming License Violation

- (a) If the Tribal Commission finds that a Tribally-owned or Tribally-operated gaming operation is being operated in violation of this code or otherwise presents a threat to the Tribe or to the public, the Tribal Commission shall immediately take all necessary steps to

bring such operation into compliance, including, but not limited to, closing down such operation temporarily or permanently pursuant to enforcement procedures and regulations duly promulgated by the Tribal Commission under this code.

- (b) Nothing contained in this Section or in this code shall be construed as limiting, restraining or effecting a waiver of the Tribal Commission or of the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to Tribal and federal law.

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 7 - Gaming Employee Licenses

§ 701 - Current and Valid Gaming Employee License Required

Every management official and employee of any Class II or Class III gaming operation subject to this code shall possess a current, valid gaming employee license.

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.

§ 702 - Application for Gaming Employee License

- (a) A person seeking a Tribal gaming employee license shall submit an application to the Tribal Commission on such form and in such manner as the Tribal Commission may require.
- (b) Such application shall include the following information:
- (1) The applicant's name, including all other names used, current home and work addresses and telephone numbers, social security number, place of birth, date of birth, citizenship, and driver's license number, as well as the address of his or her personal residences over the past five (5) years. If the applicant has resided at his or her current address for less than two (2) years, his or her previous address.
 - (2) The name, address and telephone number of the gaming facility and of the gaming operator for whom the applicant intends to work and the specific location in which the applicant will be employed.
 - (3) The name and job description of the applicant's position.
 - (4) The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters.

- (5) A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, the applicant's explanation of the outcome of the case, including the date of final disposition.
- (6) The names, current addresses and telephone numbers of three references who are not related to the applicant and who were acquainted with the applicant when the applicant was residing at each of the addresses listed in § 702(b)(1).
- (7) A list of the applicant's previous jobs over the preceding five years, including the name, address and telephone number of his or her employer, and the position held.
- (8) The names and addresses and a brief description of all businesses in which the applicant currently holds, or has within the last five years held, an ownership interest.
- (9) A description of any previous employment relationship with an Indian Tribe, including the employee position held, name of the Tribe involved and name and address of a person who can attest to the accuracy of the information provided.
- (10) A description of any current or past non-employee business arrangement which the applicant has had with an Indian Tribe, including the name of the Tribe involved and the name and address of a person who can attest to the accuracy of the information provided.
- (11) A statement as to whether the applicant has had any past employment with, or ownership interest in, any gaming business. If so, the applicant shall provide a written statement describing his or her position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities and the name, address and phone number of the business, and a person who can attest to the accuracy of the information provided.
- (12) A list of all gaming-related licenses the individual has ever applied for, whether or not those licenses were granted and the name and address and phone number of the regulatory agency involved.
- (13) A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and the name, address and phone number of the regulatory agency involved.
- (14) A statement of all languages written or spoken.
- (15) A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any immediate family member who has such an interest, that applicant shall fully disclose that family member's name and the nature of the interest. For the purposes of this subsection, "family member" shall include a mother, father, husband, wife, sister, brother [natural or adopted], son or daughter [natural or adopted].

- (16) Written permission giving the Tribal Commission or its designee the right to investigate the applicant's background, including his criminal record, civil and criminal judgments and credit history.
 - (17) A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.
 - (18) A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment and the name and address of the court involved.
 - (19) The applicant's fingerprints will be taken by GTB Tribal Police, who are responsible for conducting this portion of the applicant's criminal history check and forwarding the fingerprint cards to the NIGC for processing through the FBI.
 - (20) Any other information which might bring into question his fitness to serve as a primary management official or key employee of a licensed gaming operation.
- (c) Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.
 - (d) Each application shall be accompanied by a photograph of the applicant taken within the last year.
 - (e) Each application shall be accompanied by a sworn statement that the applicant will abide by this code and all other applicable law.
 - (f) Each application shall be accompanied by a written statement that the applicant has read, understands and approves of the following Privacy Act notice:

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 individuals to be employed in a gaming operation. The information will be used by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, Tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance 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 a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of an applicant's social security number (SSN) is voluntary; however, failure to supply a SSN may result in errors in processing the application.

- (g) Each application for a gaming employee license shall be accompanied by a fee of fifty dollars (\$50.00) subject to the following conditions:
- (1) All management officials and employees of a gaming operation who are employed as of December 10, 1993 shall be exempt from payment of the application fee.
 - (2) All management officials and employees of a gaming operation who are employed after December 10, 1993 shall be subject to payment of the fifty dollar (\$50.00) application fee. The Tribal Commission may revise the application fee.
 - (3) All management officials and employees of a gaming operation who are employed after December 10, 1993, as a condition of their employment which shall be evidenced by a voluntary consent form, hereby agree that the fifty dollar (\$50.00) application fee delineated in this subsection (g) shall be deducted from their first paycheck by withholding twenty-five dollars (\$25.00) and from their second paycheck by withholding twenty-five dollars (\$25.00).
 - (4) All employees of a gaming facility shall be subject to a twenty dollar (\$20.00) deposit on any uniforms issued to the employee. The deposit shall be returned upon the termination or resignation of the employee's employment relationship and the employee's return of the uniform in good condition.

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.

§ 703 - Review Procedure for Gaming Employee License Application

Before issuing a gaming employee license, the Gaming Commission Regulator responsible for carrying out gaming licensing eligibility investigations shall:

- (a) Perform or arrange to have performed the necessary background investigation on the applicant required by this code and by 25 C.F.R. 556 and 558, in order to determine the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
 - (1) This investigation shall include contacting each reference provided in the application, and interviewing a sufficient number of knowledgeable people such as former employers and personal references of the applicant to provide the Tribal Commission with a rational basis upon which to determine the applicant's eligibility for licensing.
 - (2) A complete record of these background investigative procedures shall be kept for each applicant and summarized in a written report.
 - (3) This background investigative report shall include all steps taken in conducting the investigation of the applicant, the results obtained, conclusions reached, and the bases for these conclusions.

- (4) The Tribal Commission shall review the contents of these background investigative reports according to the requirements of this code and requirements at least as stringent as those in 25 C.F.R. 556 and 558. Based upon this review, the Tribal Commission shall grant or deny a gaming license to a management official or employee of a gaming operation. The applicant shall be notified in writing of the Tribal Commission's decision. If the Gaming Commission Regulator charged with enforcing this section decides to deny the license, he shall include in such notice the specific reasons for his decision.
- (b) Forward to the National Indian Gaming Commission a copy of the application, the results of the background investigations performed and the Tribal Commission's findings and decision.
- (c) All applications, background investigations and Tribal Commission decisions shall be retained in the Tribal Commission files for a period of at least ten (10) years.

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.

§ 704 - Scope of Gaming Employee License

- (a) A gaming employee license shall be effective only for the person to whom it is issued and only with respect to the gaming facility specified in the application.
- (b) Any such license may be transferred to a new gaming facility only upon prior approval of the Tribal Commission upon written request of the licensee which shall identify the proposed new gaming facility, its location and the proposed gaming operator thereof.

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.

§ 705 - Licensing Period

An employee gaming license issued pursuant to this code shall be effective for a period of one (1) year from the date of issuance or until such time as the Gaming Commission changes the effective date and shall state on its face the date that the license became effective and the date that it expires.

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.

§ 706 - Renewals

A holder of an employee gaming license shall apply to the Tribal Commission for a renewal before his original license has expired, updating all information contained in the original application.

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.

§ 707 - Requirement to Produce License Upon Request

Any person receiving an employee gaming license must carry that license upon his person during all working hours and must produce that license upon the request of any law enforcement official with jurisdiction over the gaming activity or any agent of the Tribe, the Tribal Commission or the National Indian Gaming Commission.

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.

§ 708 - Permanent License Revocation of Employee Gaming License

- (a) Grounds for Permanent Revocation. The Tribal Commission may permanently revoke an employee's gaming license, after notice and an opportunity for a hearing, for any of the following reasons:
- (1) The employee has withheld pertinent information on his application;
 - (2) The employee has made false statements on the application;
 - (3) The employee has participated in gaming activity which was not authorized by any Tribal gaming license;
 - (4) The employee has attempted to bribe a Tribal Council member, Tribal Commissioner or other person in an attempt to avoid or circumvent this code or any other applicable law;
 - (5) The employee has offered something of value or accepted a loan, financing or other thing of value from an Tribal Commission member, a subordinate employee or any person participating in any gaming activity;
 - (6) The employee has knowingly promoted, played or participated in any gaming activity operated in violation of this code or any other applicable law;
 - (7) The employee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of gaming activity;
 - (8) The employee has violated any provision of this code or the rules and regulations of the Tribal Commission;
 - (9) The employee has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving gaming, fraud, theft, embezzlement or other activity which, if perpetrated at his gaming operator's place of employment would injure or pose a

threat to the public interest, or the integrity of the gaming activity, or the effective regulation of gaming or enhance the dangers of unfair, unsuitable or illegal gaming practices;

- (10) The employee has been charged or arrested in connection with a crime involving the sale of illegal narcotics or controlled substances;
 - (11) The employee has failed to comply with any lawful order, inquiry or directive of the Tribal Commission, the Tribal Council or any administrative or judicial body of competent jurisdiction, arising from any gaming activity whether or not subject to this code; or
 - (12) The employee is determined to have present or prior activities, including criminal record, or reputation, habits or associations which pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.
- (b) Procedure for Permanent Revocation.
- (1) Whenever it is brought to the attention of the Tribal Commission that a person has violated any of the conditions in subsections 708(a)(1) through (12), or has failed to comply with any condition of his Tribal gaming license or has failed to obtain a license, the Tribal Commission or its designee may either undertake an investigation, or serve upon such person an order to show cause why the person's license should not be revoked or why the person should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe.
 - (2) The order shall state the grounds for which such revocation is sought, and that the employee shall have an opportunity to present testimony and to cross examine opposing witnesses, and to present any other evidence as to why revocation or injunction should not be issued.
 - (3) The hearing shall be set for not less than ten (10) days nor more than fourteen (14) days from the date of notice.
 - (4) The hearing shall be governed in all respects in accordance with Tribal law and Tribal Commission regulations.

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.

§ 709 - Temporary Suspension of Employee Gaming License

- (a) Grounds for Temporary Suspension. The Tribal Commission may temporarily suspend an employee gaming license for not more than thirty (30) days for any of the following reasons:

- (1) The employee has been charged with a violation of any gaming law.
 - (2) The employee's continued employment as a primary management official or key employee of a game or gaming activity poses a threat to the general public.
 - (3) The employee has made a material false statement in his license application.
 - (4) The employee has participated in gaming activity unauthorized by his Tribal gaming license.
 - (5) The employee has refused to comply with any lawful order of the Tribal Commission, the Tribal Council, the Tribal Court or the National Indian Gaming Commission arising from or relating to gaming.
- (b) Procedure for Temporary Suspension.
- (1) Whenever it is brought to the attention of the Tribal Commission that a person has violated any of the conditions in subsections 709(a)(1) through (5), or has failed to comply with any condition of his employee gaming license or of this code that constitutes a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Commission or its designee shall issue a notice of temporary suspension of such person's employee gaming license, which shall be served upon the employee.
 - (2) The notice shall state the grounds upon which such temporary suspension is ordered and that the employee shall have an opportunity to present testimony and to cross-examine opposing witnesses and to present any other evidence as to why suspension should not issue.
 - (3) The employee shall immediately cease and desist operating in his management position or in his capacity as a key employee upon receipt of the order, but such person may file a notice of appeal with the Tribal Commission within five days of such receipt.
 - (4) Upon receipt of such notice of appeal, the Tribal Commission shall hold a hearing on the order within fourteen calendar days of its receipt of the appeal.
 - (5) At the hearing, the employee shall have the opportunity to present testimony and cross-examine witnesses, and present any other evidence as to why temporary suspension order should not be issued.
 - (6) Such hearing shall be governed in all respects by Tribal law and Tribal Commission regulations.

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 8 - Provisions of General Applicability to All Gaming Operators

§ 801 - Gaming License Requirement - Gaming Operator

Each Class II or Class III gaming operation within the jurisdiction of the Tribe shall be conducted only by a gaming operator who possesses a current and valid Tribal gaming license.

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.

§ 802 - Gaming License Limitation

Each Tribal gaming license shall be applicable only to one gaming site and the gaming operator named on such license.

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.

§ 803 - Prohibition of Gaming License Transfer

No Tribal gaming license shall be sold, lent, assigned or otherwise transferred.

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.

§ 804 - Gaming License Requirement - Management/Key Employees

Each management official and employee of a licensed gaming operation shall possess a current and valid Tribal gaming employee license.

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.

§ 805 - Recipients of Gaming License

A Tribal gaming license shall be issued only to a person who qualifies therefore under this code, or to the Tribe or a Tribal subdivision.

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.

§ 806 - Code/Regulation Availability

Each gaming operator shall have a copy of this code and regulations readily available for inspection by any person at each authorized gaming facility or activity.

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.

§ 807 - Restriction on Persons Under 18

No person under the age of eighteen (18) years shall be permitted to conduct, assist in or play any gaming activity conducted at any location having an alcoholic beverage license of any type or class.

History: Gaming Code adopted by Tribal Council on October 1, 1993; as amended by Tribal Council on April 22, 1997; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; and as amended by Tribal Act #99-17.754, enacted by Tribal Council in Special Session on July 28, 1999.

§ 808 - Restriction on Persons Under 14

A person under the age of fourteen (14) years may participate in gaming activity in private homes, purchase raffle tickets, attend sporting contests or ticket drawings, and stick game and other traditional gaming tournaments.

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.

§ 809 - Posting of Rules

Each gaming operator shall post in a conspicuous location near where each gaming activity is being played or shall otherwise provide the public with an explanation of the rules of play of every game he operates.

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.

§ 810 - Approval for Renting/Lending of Gaming Equipment

A gaming operator is prohibited from renting or lending gaming equipment to any person without the prior written approval of the Tribal Commission.

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.

§ 811 - Participation in Manufacture/Construction of Gaming Equipment

Each gaming operator who participates in the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Commission of his intention and shall have the finished product approved by the Tribal Commission before it is placed in service.

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.

§ 812 - Sale and Redemption of Gaming Chips

Gaming chips and other tokens of value may be sold and redeemed only by the gaming operator and only for full value.

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.

§ 813 - Maintenance of Books and Records

Every licensed gaming operation shall maintain and keep for not less than ten (10) years permanent books of accounts and records, including inventory records of gaming supplies, sufficient to establish the gross and net income, deductions, expenses, receipts and disbursements of the enterprise.

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.

§ 814 - Council Approval Required for Liquor Sale

There shall be no sale of liquor at any gaming site without the prior approval of the Tribal Council.

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.

§ 815 - Cash Consideration

Consideration for the chance to play in any gaming activity shall only be cash or, if allowed by the gaming operator, personal check and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the Tribal Commission gives prior written approval.

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.

§ 816 - Evidence of Win

Evidence of any win or loss incurred by a player must, upon request, be provided to such player in such form as will be acceptable to the IRS.

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.

§ 817 - Fees and Report Filing

Each gaming operator shall pay all fees and file all reports required by law within the time prescribed.

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.

§ 818 - Response to Subpoenas and Orders

Each gaming operator shall respond immediately to and obey all inquiries, subpoenas or orders of the Tribal Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission.

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.

§ 819 - Display of Tribal Gaming License

Each gaming operator shall prominently display at each gaming site a current, valid Tribal gaming license.

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.

§ 820 - Orderly, Clean and Neat Establishments

Each gaming operator shall at all times maintain an orderly, clean, and neat gaming establishment, inside and out.

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.

§ 821 - Security

Each gaming operator shall provide adequate security to protect the public before, during and after any gaming activity.

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.

§ 822 - Patrol by Tribal Police Force

Each licensed gaming operation shall be subject to patrol by the Tribal police force for the purpose of enforcing Tribal law, and each gaming operator shall cooperate at all times with the Tribal police force.

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.

§ 823 - Inspection of Premises, Books, and Records

Each gaming operator shall make its premises and books and records available for inspection during normal business hours by the Tribal Commission and members of the Tribal Council or their designee.

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.

§ 824 - Special Days of Observance

No gaming shall be conducted on special days of observance designated by the Tribal Commission.

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.

§ 825 - Discrimination

No gaming operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed gaming activity.

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.

§ 826 - Books and Records of Monies Received

Each gaming operator shall keep accurate books and records of all monies received and paid out and provide the Tribal Commission or its designee with copies of or access to the same upon request.

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.

§ 827 - Use of Net Revenue

All net revenue of any gaming operation shall be used only in a manner prescribed by 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.

§ 828 - Compliance with Revenue Reporting Laws

Every gaming operator shall comply with all applicable Tribal and federal revenue reporting laws.

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.

§ 829 - Suspension/Termination of Employees

- (a) Each gaming operator shall immediately suspend any employee who is charged with an offense described in subsections 902(a)-(gg) or any offense related to the sale, possession, manufacture and/or transport of illegal drugs.
- (b) The gaming operator shall also immediately notify the Tribal Commission in writing of the name of the person and the pending charge and advise the Tribal Commission of the outcome of the case.
- (c) If the employee is convicted or pleads *nolo contendere* to the charge, the employee's employment shall be terminated.

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.

§ 830 - Disputes

Any dispute between GTB gaming enterprises and the gaming public which arises over the payment of winnings to a member of the gaming public shall be resolved according to the following schedule:

- (a) If the disputed win is less than two hundred dollars (\$200.00) the department head, or designee, of that game shall resolve the matter at the time of the dispute, and that resolution shall be final.
- (b) If the disputed win is two hundred dollars (\$200.00) or more, but less than one thousand dollars (\$1,000.00), the gaming manager shall resolve the matter within eight (8) hours, and that resolution shall be final.
- (c) If the disputed win is one thousand dollars (\$1,000.00) or more, the Tribal Commission shall resolve the matter within thirty (30) days, and that resolution shall be final.

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 9 - Enforcement

§ 901 - Jurisdiction

Except as provided in this code or in any tribal/state compact under the IGRA, the Tribal Court shall have jurisdiction over all violations of 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.

§ 902 - Prohibited Acts

In addition to other civil and criminal offenses provided for in this code or under other applicable law, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

- (a) Operating or in any way participating in any on-reservation gaming activity not authorized by this code.
- (b) Knowingly making a false statement in an application for employment with any gaming operator or with the Tribal Commission.
- (c) Knowingly making a false statement in connection with any contract to participate in any gaming activity.
- (d) Attempting to bribe any person participating in any gaming activity.
- (e) Offering or accepting a loan, financing or other thing of value between a Tribal Commission member or employee and any person participating in any gaming activity.
- (f) Promoting or participating in any illegal gaming activity.

- (g) Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity authorized pursuant to this code.
- (h) Falsifying any books or records which relate to any transaction connected with any gaming activity pursuant to this code.
- (i) Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation or which allows any other disreputable tactics that detract from the fair nature and equal chance of participation between gaming players, or which otherwise creates an advantage over and above the chance of such gaming activity and which affects its outcomes.
- (j) To conduct a gaming activity with, or to allow participation in a gaming activity by, an intoxicated or disorderly player.
- (k) To allow or participate in the sale of liquor at gaming sites when such sale is prohibited by Tribal law.
- (l) To accept consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity.
- (m) To use bogus or counterfeit chips or charitable gaming tickets, or to substitute or use any cards, charitable gaming tickets or gaming equipment that has been marked or tampered with.
- (n) To employ or possess any cheating device or to facilitate cheating in any gaming activity.
- (o) To willfully use any fraudulent scheme or technique to change the odds of any game of chance. The technique known as “card counting” is specific grounds for barring a patron from the casino.
- (p) To solicit, directly or indirectly, or to use, inside information on the nature or status of any gaming activity for the benefit of any person.
- (q) To tamper with a gaming device or attempt to conspire to tamper with or manipulate the outcome or the payoff of a gaming device, or otherwise interfere with the proper functioning of the machine.
- (r) To alter or counterfeit a gaming license.
- (s) To aid, abet, or conspire with another person knowingly or knowingly to cause any person to violate any provision of this code or any rules and regulations adopted hereunder.
- (t) To operate, use or make available to the public any illegal gaming device, apparatus, material, or equipment.

- (u) To sell, hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material, or equipment.
- (v) To assist or allow a person who is underage to participate in any gaming activity.
- (w) To possess any illegal narcotics or controlled substances on any licensed gaming site.
- (x) To steal or attempt to steal funds or other items of value from any gaming operation or from the Tribal Commission.
- (y) To employ any person at a licensed gaming operation whom the gaming operator knows has been convicted of a gaming crime or a crime of fraud.
- (z) To conspire with or induce any person to violate any of the provisions of this code or any Tribal or federal law.
- (aa) No gaming operator or any of his employees or agents shall engage in any act, practice, or course of operation which could result in a fraud or deceit upon any person.
- (bb) To employ or have on the Reservation any device to facilitate cheating in any game of chance.
- (cc) To use any fraudulent scheme or technique knowingly, or to solicit, provide, or receive inside information about any gaming activity with the intent of benefiting any person.
- (dd) To alter or counterfeit a gaming license.
- (ee) To knowingly aid, abet, or conspire with another person to violate or to cause any person to violate any provision of this code or other applicable law.
- (ff) To take, solicit or encourage any action which undermines the integrity of any game of chance.
- (gg) No gaming operator shall employ any person who has been convicted of or entered a plea of *nolo contendere* to a crime of theft, embezzlement, fraud, a gaming crime or any other crime which, if perpetrated on the gaming operator's premises would threaten the fairness or integrity of the game or create a threat to the public.

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.

§ 903 - Criminal Violation

- (a) Any Indian who violates or fails to comply with any provision of this code, or who fails to comply with any order or decision of the Tribal Commission, shall be guilty of a crime and shall be required to pay a maximum fine of five thousand dollars (\$5,000.00) or to serve one (1) year imprisonment, or both.

- (b) Each day during which such violation or failure to comply continues shall constitute a separate violation of 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.

§ 904 - Civil Violation

- (a) Any person who violates or fails to comply with any provision of this code, or who fails or neglects to comply with any order of the Tribal Commission, shall be liable for a civil fine not to exceed five thousand dollars (\$5,000.00) for each violation thereof.
- (b) Each day during which such violation or failure to comply continues shall constitute a separate violation of this code.
- (c) The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

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.

§ 905 - Cumulative Fines

All civil fines accruing under this code 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 bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

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.

§ 906 - Purpose of Civil Penalties

The civil fines imposed under this code are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the Reservation, and to compensate the Tribe for costs incurred by the Tribe in enforcing this code.

- (a) 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.

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.

§ 907 - Civil Action for Penalties

- (b) 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.
- (c) 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: 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.

§ 908 - Seizure and Forfeiture of Property

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

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.

§ 909 - 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 shall notify the Tribal Commission in writing of the final court disposition.

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 10 - Operation of Tribally-Owned or
Tribally-Operated Games****§ 1001 - Management by a Gaming Manager**

- (a) The Tribal Council shall delegate to the GTB/EDC the responsibility for appointing one person to serve as gaming manager of each Tribally-owned or Tribally-operated gaming facility.
 - (1) The gaming manager shall undergo a background investigation by the Gaming Commission Regulator charged with the background investigation regulatory function and shall obtain an employee gaming license from the Tribal Commission before commencing work.

- (2) The Tribal Commission shall retain the authority to suspend or dismiss the gaming manager for a violation of this gaming code.
- (b) The gaming manager shall be responsible for managing and overseeing the day-to-day operations of the gaming operation.
- (c) The gaming manager shall have such authority as the GTB/EDC may delegate by written rules.

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.

§ 1002 - Use of Net Revenue of Tribally-Owned or Tribally-Operated Gaming Activities

- (a) All net revenue of Tribally-owned or Tribally-operated gaming operations transferred by the GTB/EDC to the Tribe shall be held in the name of the Tribe. Such 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 Tribe and its members.
 - (3) To promote Tribal economic development.
 - (4) To donate to charitable organizations.
 - (5) To help to fund operations of local government agencies.
- (b) All net revenues of gaming shall be expended in accord with the GTB Revenue Allocation Ordinance, as amended [18 G.T.B.C. Chapter 16].

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.

§ 1003 - Audit Requirements

- (a) The Tribal Commission and the gaming manager of each Tribally-owned or Tribally-operated gaming operation shall obtain an annual independent audit of such gaming operation. A copy of such audit shall be provided to the Tribal Commission, the Tribal Council and the National Indian Gaming Commission.
- (b) Each contract for supplies, services (other than legal and accounting services) or concessions for a contract amount in excess of twenty-five thousand dollars (\$25,000.00) annually shall be subject to an independent audit. A copy of such audit will be provided to the Tribal Commission, the Tribal Council and the National Indian Gaming Commission.

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.

§ 1004 - Additional Requirements for Operation of Tribally-Owned or Tribally-Operated Games

- (a) Any cash winning of an amount under twenty-five thousand dollars (\$25,000.00) shall be paid in cash or check and shall be paid on the date it is won. Each patron's winnings of an amount over twenty-five thousand dollars (\$25,000.00) shall be paid by check and shall be paid within seventy-two (72) hours after it is won.
- (b) The gaming facilities shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, as determined by the Tribal Commission.
- (c) Each Tribally-owned or Tribally-operated gaming facility shall carry sufficient liability insurance to protect the public in the event of an accident.
- (d) Each Tribally-owned or Tribally-operated gaming operation shall post the rules of play of each game in a conspicuous place where gaming is conducted and shall make written copies of such rules available to any member of the general public upon request.

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 11 - Authorized Games

§ 1101 - Authorized Games

Consistent with applicable law, the Tribe authorizes the licensing of the following games of chance:

- (a) Bingo
- (b) Twenty-one or Blackjack
- (c) Poker
- (d) Craps and related dice games
- (e) Roulette
- (f) 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.

- (g) Electronic games of chance featuring coin drop and pay out as well as printed tabulations, whereby the software of the device predetermines the presence or lack of a winning combination and pay out. 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 credit, and awards games credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.
- (h) Keno
- (i) Interactive satellite or telephonic games of chance
- (j) All other games of chance that may be authorized under a Tribal/State Gaming Compact with the State of Michigan pursuant to the IGRA.

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 12 - Electronic Devices or Service Provider Licenses

§ 1201 - Applicability

- (a) This section and code applies to all suppliers of electronic gaming devices engaged in the sale of, or service thereto, of electronic gaming within the jurisdiction of the Tribe.
- (b) Any application for a vendor license pursuant to this code and participation in the sale of electronic gaming devices to the Tribe, or service thereof, shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such activities and all matters arising under any of the provisions of this code or other Tribal laws.
- (c) A license under this code is a privilege and not a right.

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.

§ 1202 - Licenses Required

No person shall sell or provide service to an electronic gaming device within the jurisdiction of the Tribe unless such person is licensed by the Tribe.

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.

§ 1203 - Types of Licenses

The Tribe shall issue each of the following types of electronic gaming licenses:

- (a) Vendor License;
- (b) Service License; and
- (c) Vendor/Service License.

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.

§ 1204 - Application Procedures

Application For a Vendor License, Service License, or Vendor/Service License. For any proposed sale or service of an electronic gaming device, the proposed licensee shall file with the Tribal Commission an application entitled "Vendor Disclosure Form" which shall contain the name of the proposed vendor/licensee, its location, financial history, controlling principals, legal entity and criminal background investigation, and all other pertinent information required by this code and Tribal Commission regulations.

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.

§ 1205 - Criteria Which A Potential Vendor or Service Provider Must Meet

The Tribal Commission shall issue the above license to any vendor, service provider or vendor/servicer only if one of the following criteria are met:

- (a) The vendor, service provider or vendor/servicer is licensed to sell and/or service electronic gaming equipment in the State of Nevada or the State of New Jersey; or
- (b) The principals and all employees of the principals, all primary management officials and all key employees have passed the background investigations and obtained a license required under this code. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain a license under 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.

§ 1206 - License Application Fee

- (a) All vendors and vendor/servicers shall pay an application license fee of five hundred dollars (\$500.00).

- (b) All service providers shall pay a license application fee of one hundred dollars (\$100.00).

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.

§ 1207 - Form of License

Every license under this section shall be issued by the Tribal Commission and shall include the name and address of the authorized licensee and the signature of an authorized officer of the Tribal Commission.

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.

§ 1208 - Scope of License

- (a) A license issued by the Tribal Commission shall be effective only for the specific purpose stated in the license.
- (b) Such license is not transferable.

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.

§ 1209 - Term of License

Each license shall be valid for one (1) year.

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.

§ 1210 - License Renewal

- (a) Each license must be renewed every year.
- (b) A renewal fee of one hundred dollars (\$100.00) shall be applied to vendor and vendor/servicer licenses.
- (c) A renewal fee of twenty-five dollars (\$25.00) shall be applied for a service provider.
- (d) No renewal application shall be approved until the Annual Report, required by § 1211, has been properly filed.

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.

§ 1211 - Annual Reports

- (a) Each licensee must file an annual report with the Tribal Commission between the 15th day and the last day of the 12th month duration of each such license.
- (b) The report shall be submitted to the Tribal Commission in an Annual Report form provided by the Tribal Commission.

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.

§ 1212 - Procedure to Remedy License Violations

- (a) If the Tribal Commission finds that a vendor, service provider, or vendor/service provider is operating in violation of this code or otherwise presents a threat to the Tribe or the public, the Tribal Commission shall immediately take all necessary steps to bring such activity into compliance including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and regulations promulgated by the Tribal Commission under this code.
- (b) Nothing contained in this section or in this code shall be construed as limiting, restraining, or effecting a waiver of the Tribe or of the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to Tribal and federal law.

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.

§ 1213 - Application to GTB/EDC Employees

The provisions of §§ 1201-1212 of this code do not apply to employees of the GTB/EDC who are licensed under the gaming code as management officials or employees of a gaming operation.

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 13 - Procedure for a Certificate of Rehabilitation for
the Limited Purpose of Obtaining a GTB Gaming License**

§ 1301 - Applicability

- (a) This section and code applies only to all Tribal members of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (b) Any application for a Certificate of Rehabilitation for the limited purpose of obtaining a GTB Gaming License shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Commission in all matters arising from the conduct of such activities and all matters arising under any of the provisions of this code or other Tribal laws.

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.

§ 1302 - GTB Gaming License

- (a) Consistent with § 703(a) of this code, all employees shall obtain a GTB Gaming License. The Tribal Commission shall apply Sections 4(D)(2)-(4) of the GTB/Michigan gaming compact which provides that:

“The Tribe may not license...any person who:...

- (1) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation; or
 - (2) 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
 - (3) 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.”
- (b) In order to clarify and give effect to the purpose and intent of Section 4(D)(2) and (3) of the GTB/Michigan gaming compact, the Tribe and the State of Michigan stipulated and agreed to be bound by the following construction and interpretation of terms in Section 4(D)(2) and (3) of the Compact:

- (1) “The terms ‘fraud or misrepresentation,’ as used in Section 4(D)(2) of the Tribal-State Compact, shall mean a criminal offense committed in Michigan or any other jurisdiction, involving theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee’s criminal record by executive pardon, state court order, or operation of law.
 - (2) The term ‘any offense,’ as used in Section 4(D)(3) of the Tribal-State Compact, shall mean any criminal offense not described at Section 4(D)(2), whether committed in this state or any other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, as amended, being MCL 750.1 to 750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545, or any other criminal offense not specified in subparagraph (2) involving theft, dishonesty, fraud or misrepresentation arising under the law of Michigan or another state or jurisdiction, that was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee’s criminal record by executive pardon, state court order, or operation of law.”
- (c) If the applicant for a GTB Gaming License is disqualified by the Tribal Commission because of a criminal conviction, guilty plea or entrance of a plea of no contest which would be deemed a disqualifying event under Section 4(D)(2)-(4) of the GTB/Michigan compact, then the applicant, if he or she meets the categorical standards of § 1301 herein, may apply for a Certificate of Rehabilitation from the Tribal Commission for purposes of obtaining a GTB Gaming License.

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.

§ 1303 - Certificate of Rehabilitation

The Tribal Commission shall have the power to issue a Certificate of Rehabilitation to those applicants identified in § 1301 of this code for purposes of issuing a GTB Gaming License.

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.

§ 1304 - Standards for Issuing a Certificate of Rehabilitation

The Tribal Commission shall issue the above Certificate of Rehabilitation to any applicant who has been deemed disqualified by the Gaming Commission Regulator charged with the responsibility of enforcing Chapter 6 of this code (“Gaming Employee Licenses”) because of the application of Sections 4(D)(2)-(4) of the GTB/Michigan gaming compact upon a showing that the following criteria have been met by the applicant:

- (a) If the applicant is a member of the Grand Traverse Band of Ottawa and Chippewa Indians; and
- (b) If the applicant has been convicted of a misdemeanor, plead guilty or entered a plea of no contest within the last five years and the conviction, plea of guilty or no contest does not relate to theft, fraud, or misrepresentation; and
- (c) If the applicant has been disqualified based upon a felony conviction, plead guilty or entered a plea of no contest, or based upon a gambling-related offense, theft, fraud, or misrepresentation conviction, plead guilty, or entered a plea of no contest, then if that felony or offense is more than ten (10) years old, said felony or offense shall not be considered as a disqualifying factor.

CRIME	ELAPSED TIME	GTB POLICY
Felony:	Within past 10 years	No license
Felony:	More than 10 years	License only with Certificate of Rehabilitation
Theft, fraud, misrepresentation, or gambling related offense:	Within past 10 years	No license
Theft, fraud, misrepresentation, or gambling related offense:	More than 10 years	License only with Certificate of Rehabilitation
Misdemeanor <u>not</u> theft, fraud, misrepresentation, or gambling related offense:	Within past 5 years	License only with Certificate of Rehabilitation
Misdemeanor <u>not</u> theft, fraud, misrepresentation, or gambling related offense:	More than 5 years	License

- (d) The Tribal Commission may then issue a Certificate of Rehabilitation upon a finding that the particular circumstances and behavior of the applicant balanced against the public welfare demonstrates the applicant’s fitness to serve as a management official or employee of a gaming operation.

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 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.

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 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.
- (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 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, formerly known as Empire National Bank, for a period of five (5) years to the year 2006, if at all, unless Empire/Huntington 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 Empire/Huntington 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 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.
- (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 Empire National Bank Trustees 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 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 Empire 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 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.
- (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; and as amended by Tribal Act #07-25.1742 enacted by Tribal Council on January 17, 2007.

§ 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 notarized “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. 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.

§ 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/sellor or the proposed lease/purchase agreement, is determined to have participated in or have involvement with organized crime or has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation, or has been convicted of or entered a plea of guilty or no contest to any other felony offense within the immediately preceding five years, unless that person has been pardoned.

- (C) The seller, lessor, manufacturer, or distributor shall provide, assemble and install all Class III games of chance, gaming equipment, and supplies in a manner approved and licensed by the Tribe.

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