

**TITLE 14  
PUBLIC SAFETY & REGULATION**

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**Chapter 1 - Law Enforcement and Police Force**

**§ 101 - Police Firearm Specifications**

- (a) The Grand Traverse Band of Ottawa and Chippewa Indians specifies that its law enforcement officers who meet the Tribe’s requirements for carrying firearms shall carry revolvers of .357 Magnum caliber, with ammunition being any standard factory-produced ammunition generally recognized as suitable for law enforcement purposes in either .357 Magnum caliber or .38 caliber EXCEPT that under no circumstances may officers use “KTW” or other ammunition designed to pierce body armor.

History: Tribal Act #88-620, enacted by Tribal Council on May 18, 1988;

- (b) The Grand Traverse Band of Ottawa and Chippewa Indians specifies that its law enforcement officers who meet the Tribe’s requirements for carrying firearms shall be allowed to carry 9mm, 40 and/or 45 semi-automatic, with ammunition being any standard factory-produced ammunition generally recognized as suitable for law enforcement purposes in either 9mm, 40 and/or 45 semi-automatic except that under no circumstances may Officers use “KTW” or other ammunition designed to pierce body armor.

History: Tribal Act #91-922, enacted by Tribal Council on May 21, 1991.

**§ 102 - Deputization Agreement Between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau**

- (a) Definitions. As used in this Agreement:
  - (1) “L.C.S.D.” means Leelanau County Sheriff's Department.

- (2) "Tribe" means The Grand Traverse Band of Ottawa and Chippewa Indians.
  - (3) "County" means Leelanau County.
  - (4) "M.L.E.O.T.C." means Michigan Law Enforcement Officers Training Council.
  - (5) "Qualified Officer" means M.L.E.O.T.C. Certified.
  - (6) "Primary Area" means land within the area bound by Grand Traverse Bay on the east, Putnam Road on the north to Pobuda Road to N. Jacobson Road (Hwy. 633) on the west, and McKeese/Stallman Road on the south [*see map attached to the March 19, 1997 Deputization Agreement between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau County*].
- (b) Leelanau County Sheriff. The GTB Tribal Police officers are hereby deputized by the Leelanau County Sheriff to make non-Indian criminal arrests in the primary area. The GTB Tribal Police officers are deputized to issue civil infractions on the state and county roadways described in the primary area subject to the following:
- (1) non-Indians shall be cited into state court,
  - (2) Indians shall be cited into GTB Tribal Court, and
  - (3) all civil infraction tickets issued by the GTB Tribal Police officers on Peshawbestown Road, Roubal Road, Ninatigo Drive, Kitigan Mikun, Ki-Dah-Keh Mikun and Beems-Kwa-Ma Mikun roads within the interior of the primary area shall be heard in GTB Tribal Court.
  - (4) All civil infraction tickets issued by GTB Tribal Police officers on M-22 on the east, Putnam Road on the north to Pobuda Road to N. Jacobson Road (Hwy. 633) on the west, and McKeese/Stallman Road on the south to non-Indians shall be heard in state court.
- (c) Fresh Pursuit.
- (1) Any duly authorized Tribal law enforcement officer who:
    - (A) observes the commission of a misdemeanor, including traffic infractions and crimes and pursues the offender without unreasonable delay; or
    - (B) observes the commission of a felony or has reasonable grounds to suspect a felony has been committed, and pursues the offender without unreasonable delay, shall be authorized to continue that pursuit across the boundaries of the primary area until the offender is apprehended, at which time the pursuing officer shall proceed as though the boundary had never been crossed and may issue such citations or effect such arrests as are dictated by the situation.

- (2) As soon as it reasonably appears that the fresh pursuit of a suspect will require leaving the primary area, the Tribal officer shall make every attempt to promptly notify L.C.S.D. law enforcement authorities of the pursuit and to request their cooperation and assistance.
  - (3) The fresh pursuit conducted under this Section shall conform with the policy and procedure of the Sheriff's Department regarding high speed pursuit.
- (d) **Qualifications and Training.** All personnel furnished by the parties pursuant to this Agreement shall be full-time commissioned law enforcement officers, certified by M.L.E.O.T.C. The Tribe shall furnish a list of all qualified GTB Tribal Police officers on January 2nd of each year.
- (e) **Operational Plan.** Any suspects arrested pursuant to this Agreement will be booked and lodged in the Leelanau County Jail, providing space is available.
- (f) **Costs.**
  - (1) The Tribe will contract with L.C.S.D. for the lodging of prisoners within the jurisdiction of the Tribe.
  - (2) The Tribe shall bear the expense of testifying in State Court when acting pursuant to state law.
- (g) **Arrests.** The L.C.S.D. agrees that they will make arrests for the Tribe outside Indian country, pursuant to a valid Tribal Court warrant, and the Tribe agrees that they will make arrests in Indian country for the L.C.S.D. pursuant to a valid State Court warrant.
- (h) **Search Warrants.**
  - (1) **Court Rules.** The provisions of Michigan Court Rule 2.615, Enforcement of Tribal Judgments, and Chapter 10 of the GTB Court Rules, Rules Regarding Enforcement and Recognition of Foreign Judgments, shall apply to this Agreement.
  - (2) **State Warrants.**
    - (A) County law enforcement officers shall present search warrants authorizing the search for evidence located on the Tribe's reservation and Indian country (in accordance with the Tribal code) to Tribal law enforcement authorities for execution.
    - (B) The Grand Traverse Band Police Department agrees to cooperate in the execution of properly issued state search warrants within the reservation and Indian country and to observe the requirements of State and Federal law in doing so.

- (C) L.C.S.D. law enforcement officers may, at the invitation of Tribal authorities, accompany Tribal officers when a state warrant is executed.
- (i) Tribal Warrants.
  - (1) Tribal law enforcement officers shall present search warrants authorizing the search for evidence located off the Tribe's reservation and Indian country to County law enforcement authorities for execution. The Leelanau County Prosecuting Attorney agrees to review and prepare search warrants for off-reservation searches.
  - (2) The L.C.S.D. agrees to cooperate in the execution of Tribal search warrants off the reservation and Indian country and to observe the requirements of State, Tribal and Federal law in doing so.
- (j) Immunities.
  - (1) All the immunities from liability and exemptions from laws, ordinances and regulations which Tribal law enforcement officers deputized by the Sheriff, pursuant to the authority of this written instrument and M.C.L.A. 51.70, have in their own Tribal jurisdiction shall be effective in the state's jurisdiction in which the Tribal law enforcement officers are giving assistance unless otherwise prohibited by law.
  - (2) The provisions of 25 U.S.C. § 450f and the application of the Federal Tort Claims Act applies to acts performed by GTB Tribal Police officers.
- (k) Hold Harmless.
  - (1) The Sheriff and Tribe shall waive any and all claims against each other which may arise out of their activities outside their respective jurisdictions under this Agreement unless such claims are proximately caused by the gross negligence or willful misconduct of the other party or its law enforcement officers.
  - (2) The Sheriff and Tribe shall be responsible for all liability of whatever nature arising from the acts of its own law enforcement officers and employees to the extent provided by law. Under no circumstances shall either the County or Tribe be held liable for the acts of employees of the other party performed under color of this Agreement.
- (l) Indemnification. The Tribe shall indemnify the Sheriff for all claims, judgments, or liabilities by third parties for property damage, personal injury or civil liability which may arise out of the activities of the Tribal law enforcement officers pursuant to this Agreement.
- (m) Insurance.
  - (1) The Tribe agrees to maintain and name the Sheriff as insured on an insurance policy in the amount of ten million dollars (\$10,000,000.00) per incident insuring against

claims for liability and shall maintain the policy in full force and effect during the Agreement. The Tribe shall provide a copy of the policy to the Sheriff by January 2nd of each year.

- (2) The Tribe shall submit to the Sheriff proof of adequate insurance covering each of its Tribal law enforcement officers pursuant to this Agreement by January 2nd of each year.
  - (3) The Tribe shall submit to the Sheriff proof of adequate insurance covering the Tribe and each of its law enforcement officers commissioned pursuant to this Agreement by January 2nd of each year.
  - (4) The provisions of 25 U.S.C. § 450(a)-(g) “self-governance contracting” and the application of the Federal Tort Claims Act shall apply to the extent provided by law to the actions of the Tribal law enforcement officers under this Agreement. *See*: Pub. L. No. 101-512, Title III, § 314, 104 Stat. 1959 (*codified at* 25 U.S.C. § 450f notes). In Comes Flying v. U.S. through Bureau of Indian Affairs, 830 F.Supp. 529, 530 (1993).
- (n) Costs. The Sheriff and Tribe shall each assume responsibility for all costs incurred by their own officers under this Agreement, except as otherwise provided.
- (o) Oversight Committee.
- (1) A committee consisting of Tribal and Sheriff law enforcement officers shall review activities and method of performance undertaken pursuant to this Agreement.
  - (2) The Tribe's Chief of Police and the County Sheriff shall serve as co-chairmen and shall jointly set dates and places for meetings and shall jointly preside over meetings.
  - (3) This committee may recommend to the signatories of this Agreement any amendments for consideration by the parties. This committee shall further review, in the first instance, any dispute raised by either party or by third parties, relating to this Agreement.
  - (4) The committee co-chairman shall invite representatives of their respective courts and prosecutors to attend the meetings. The committee shall meet at least quarterly or more frequently at the call of either the Tribe's Chief of Police or the County Sheriff to discuss the status of this Agreement and invite other law enforcement or other officials to attend as necessary.
- (p) Duration of Agreement. This Agreement shall remain in full force and effect until and unless terminated by either party as provided in this Agreement.
- (q) Suspension of Agreement.

- (1) If any provision of this Agreement is violated by the Sheriff or any of his agents, the Tribal Council may suspend the Agreement on ten (10) days written notice to the Sheriff. The suspension shall last until the Tribal Council is satisfied that the violation has been corrected and will not recur.
  - (2) If any provisions of this Agreement is violated by the Tribe or any of its agents, the Sheriff may suspend the Agreement immediately and terminate the deputy status of the GTB Tribal Police officers at will or upon revocation of this Agreement. The suspension shall last until the Sheriff is satisfied that the violation has been corrected and will not recur.
  - (3) The Sheriff may exercise his power of suspension to suspend an individual GTB Tribal Police officer without suspending this Agreement.
- (r) Revocation of Agreement. The Tribe may revoke this Agreement at any time by formal action upon ten (10) days written notice. The Sheriff may revoke this Agreement at any time.
- (s) Amendments. This Agreement shall not be amended except by an instrument in writing executed by signatories below and attached to this Agreement.
- (t) Saving.
- (1) This Agreement, or any commission issued pursuant to it, shall not confer any authority on a state court or other state or county authority which that court or authority would not otherwise have.
  - (2) Nothing in this Agreement shall be construed to cede any jurisdiction of either of the parties, to waive any immunities, to modify the legal requirements for arrest or search or seizure or to otherwise modify the legal rights of any person, to accomplish any act in violation of state, federal, or Tribal law or to subject the parties to any liability to which they would not otherwise be subject to by law.
- (u) Severability. The provisions of this Agreement are severable and should any provision be held invalid or unenforceable, the remainder of this Agreement remains in effect unless terminated as provided in this Agreement.
- (v) Notice.
- (1) Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and sent by registered or certified mail.
  - (2) In the case of the Sheriff, notices shall be sent to:  
  
Leelanau County Sheriff  
201 Chandler  
Leland, Michigan 49654
  - (3) In the case of the Tribe, notices shall be sent to:

Chief of Police  
Grand Traverse Band of Ottawa and Chippewa Indians  
2605 N. West Bayshore Drive  
Suttons Bay, Michigan 49682

- (w) Repealers. This Agreement constitutes the entire Agreement between the parties.
- (x) The effective date of this Agreement shall be the 19th day of March, 1997.

History: March 19, 1997 Deputization Agreement between the Grand Traverse Band of Ottawa and Chippewa Indians and the Sheriff of Leelanau County.

## **Chapter 2 - Fire Code**

### **§ 2.01 – Title; purpose; authority**

- (a) This ordinance shall be known as the Grand Traverse Band Fire Code.
- (b) The purpose of this ordinance is to establish a Fire and Rescue Department, to prescribe regulations governing conditions that present the risk of fire or explosion to the detriment of life and property, to provide for the issuance of permits and the collection of fees, and to provide enforcement of this Code and penalty for violations.
- (c) The Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians adopts this ordinance pursuant to its powers under Article IV, Section 1, of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

History: Enacted by Tribal Council on August 30, 2017.

### **§ 2.02 - Establishment of Fire and Rescue Department**

The Tribal Council, pursuant to Article IV, Sections 1(a) and (b) of the Tribal Constitution, hereby establishes a Fire and Rescue Department to be known as the “Grand Traverse Band Fire and Rescue Department”.

History: Tribal Act #93-11.51, enacted by Tribal Council on June 22, 1993; as amended by Tribal Council on August 30, 2017.

### **§ 2.03 - Fire Chief**

- (a) The Grand Traverse Band Fire and Rescue Department shall be headed by a Fire Chief, to be appointed by the Tribal Council, and who shall be under the direction and supervision of the Tribal Manager.

- (b) The authority of the Fire Chief shall include the authority to issue directives to individuals employed by the Grand Traverse Band, its enterprises, businesses, and subsidiaries, to act in compliance with this fire code. Individuals responsible for compliance with this code who fail or refuse to comply with directives issued under this section shall be issued a citation pursuant to Section 2.06 of this ordinance.

History: Tribal Act #93-11.51, enacted by Tribal Council on June 22, 1993; as amended by Tribal Council on August 30, 2017.

#### **§ 2.04 - Adoption of the National Fire Protection Association Fire Code**

- (a) As to all structures certified for occupancy prior to August 30, 2017, this ordinance adopts by reference the 2000 edition of the International Fire Code, except to the extent that its contents are modified in this Code.
- (b) As to all structures certified for occupancy after August 30, 2017, this ordinance adopts by reference the NFPA 1, Fire Code 2015 edition, and documents listed in Chapter 2 thereof, except to the extent that its contents are modified in this Code.

History: Enacted by Tribal Council on August 30, 2017; and amended by Tribal Council motion at a Tribal Council Regular Session on June 19, 2019.

#### **§ 2.05 - NFPA 1 - insertions, deletions, modifications; interpretation and application**

- (a) For purposes of adopting the NFPA 1, the Tribal Council replaces certain phrases for applicability to the Band:
  - (1) “Governing Authority” shall mean the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.
  - (2) “Authority Having Jurisdiction” or “AHJ” shall mean the office of the Fire Chief of the Grand Traverse Band Fire and Rescue Department.
  - (3) “A court of law” or “Court” shall mean the Tribal Court of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (b) Interpretation and application of the NFPA 1 pursuant to its adoption by this ordinance shall be to give full effect to its terms and provisions and full exercise of self-regulation and self-governance by the Grand Traverse Band.

History: Enacted by Tribal Council on August 30, 2017.

#### **§ 2.06 - Civil and criminal penalties**



- (a) A person may be liable for:
- (1) Violating or failing or refusing to comply with any provision of this code or standard adopted hereby;
  - (2) Failing or refusing to comply with an order issued under the authority of this code;
  - (3) Building in violation of this code, or of any detailed statement of specifications or plans submitted and approved under this ordinance;
  - (4) Failing or refusing to operate in accordance with any certificate, permit, or approval issued under the authority of this ordinance, and from which no appeal has been taken;
  - (5) Failing to comply with an order following appeal to the Tribal Court as may affirm, amend, or modify a certificate, permit or approval issued under the authority of this ordinance.
- (b) A person who is not subject to the criminal jurisdiction of the Grand Traverse Band shall be liable for a civil penalty of up to five thousand dollars (\$5,000) for engaging in the activity described Subparagraphs (a)(1) through (5) above. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, nor shall it be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions or violations are maintained shall constitute a separate infraction subject to a separate civil penalty.
- (c) A person who is subject to the criminal jurisdiction of the Grand Traverse Band may be subject to civil liability as described in Paragraph (b) above or may be prosecuted for a misdemeanor for engaging in the activity described in Subparagraphs (a)(1) through (5). The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, nor shall it be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions or violations are maintained shall constitute a separate infraction or misdemeanor subject to a separate penalty.
- (d) An action for civil or criminal liability under this ordinance shall be brought in Tribal Court by the Office of the Tribal Prosecutor, at the discretion of the Prosecutor.

History: Enacted by Tribal Council on August 30, 2017.

## **§ 2.07 - Modification of prior resolutions and policies**

Adoption of this ordinance modifies Resolution 83-120 and Resolution 01-19.1006 to the extent that the provisions herein are in conflict or supersede the provisions of those resolutions addressing fire safety. The provisions of those resolutions not in conflict with this ordinance remain in full force and effect.

History: Enacted by Tribal Council on August 30, 2017.

## **§ 2.08 - Waivers**

The Tribal Council, in consultation with its business interests, the Fire Chief, and the Director of Public Safety may grant waivers of the application of this ordinance for certain land parcels. A waiver under this section shall specifically identify the application of fire and safety codes applied in lieu of this ordinance. Such codes may be those of a municipality in which the land parcel in question is located.

A waiver under this section shall not waive the provisions of civil and criminal penalties, but shall include such penalties for violation of any fire and safety code the Tribal Council directs to apply to a land parcel in lieu of this ordinance.

History: Enacted by Tribal Council on August 30, 2017.

## **§ 2.09 - Severability**

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Tribal Council declares that it would have passed this ordinance, and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

History: Enacted by Tribal Council on August 30, 2017.

## **§ 2.10 - Effective date**

This ordinance shall be effective upon the date of its adoption by the Tribal Council.

History: Enacted by Tribal Council on August 30, 2017.

## **Chapter 3 - Animal Control**

### **§ 301 - Purpose**

Deeming it advisable in the interest of protecting the public health, safety, convenience and welfare and to provide for the orderly and uniform administration of the dog licensing provisions of the State of Michigan and in particular Act 339 of the Public Acts of 1919, as amended, being Sections 287.261-287.293 of the Compiled Laws of 1948 (MSA Sections 12.511-12.543), and to create the position of Animal Control Officer and define his or her duties, authority and responsibilities, and to regulate and control the conduct, keeping and care of dogs and certain other animals, livestock and poultry; the Grand Traverse Band Reservation does hereby adopt the following ordinance.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 302 – Definitions**

For the purposes of this ordinance, the following terms shall have the following meanings respectively designated for each:

- (a) “animal” - unless otherwise stated, the word “animal” as used in this ordinance shall include birds, fish, mammals and reptiles.
- (b) “livestock” means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, hogs, swine and fur-bearing animals being raised in captivity.
- (c) “poultry” means all domestic fowl, ornamental birds and game birds possessed or being reared under authority of a breeder’s license pursuant to Act 191 of the Public Acts of 1919, as amended, being Sections 317.71 to 317.85 of the Compiled Laws of 1948 (MSA Sections 13.1271-13.1285).
- (d) “police officer” means any person employed or elected by the people of the State of Michigan, or by any city, village, county, township, or Tribal Council whose duty it is to preserve peace or to make arrest or to enforce the law, and includes game, fish or forest fire wardens and members of the State Police, Tribal Police and Conservation Officers.
- (e) “animal control officer” means any person employed by the Tribe for the purpose of enforcing this ordinance or state statutes pertaining to dogs and other animals as well as persons or deputies employed by the Tribe to act in the Animal Control Division.
- (f) “owner” - the term “owner” and “persons owning premises” shall mean both the owner of title of record and those occupying or in possession of any property or premises. The term “owner” when applied to the proprietorship of an animal means every person having a right of property in the animal, an authorized agent of the owner, and every person who keeps or harbors the animal or who has it in his or her care, custody or control, and every person who permits the animal to remain on or about the premises occupied by him or her.
- (g) “person” - the word “person” shall include state and local officers and employees, individuals, corporations, CO-partnerships and associations.
- (h) “kennel” - the term “kennel” shall mean any establishment wherein or whereon dogs are kept for breeding, sale, leasing, trading or sporting purpose. Any premise, building and/or structure within the boundaries of the GTB Reservation; wherein or whereon more than three (3) dogs or other mammals in any combination are kept, except a duly licensed pet shop, shall also be deemed to be a kennel except as provided in § 304(h) of this ordinance.

- (i) “rabies suspect animal” - the term “rabies suspect animal” shall mean any animal which has bitten a human, or any animal which has been in contact with or been bitten by a rabid animal, or any animal which shows symptom suggestive of rabies.



- (j) “day” shall mean working days which shall include Saturday. It shall not include Sundays or holidays.
- (k) “Tribal Council” shall mean the Grand Traverse Band Tribal Council.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 303 - Animal Control Officer: Duties, Authority and Responsibilities**

- (a) An Animal Control Officer shall be appointed by the Captain of Police and shall serve as Director of the Animal Control Department.
- (b) In lieu of all fees and other remuneration under the statutes of this State, the Animal Control Officer, his or her deputies and assistants, except census takers, at a future date may be paid a salary as established and determined by appropriate resolution of the Tribal Council.
- (c) The Animal Control Officer shall fulfill the following duties:
  - (1) The Animal Control Officer shall promptly seize, take up and place in the animal shelter all dogs or other animals, livestock, or poultry found running at large or being kept or harbored any place within the Reservation contrary to the provisions of this ordinance or the statutes of the State.
  - (2) The Animal Control Officer shall be properly deputized as a peace or police officer for the purposes of this ordinance and shall be legally authorized to have the power and it shall be his or her duty to issue appearance tickets, citations or summonses to those persons owning, keeping or harboring dogs contrary to the provisions of this ordinance.
  - (3) It shall be the duty of the Animal Control Officer to see that all impounded dogs and other animals are destroyed in a humane manner or otherwise released to an appropriate person in accordance with the law and the rules and regulations of the animal shelter.
  - (4) The Animal Control Officer shall promptly investigate all animal bite cases involving human exposure and shall search out and attempt to discover the animal involved and shall either impound or quarantine it for examination for disease in accordance with the applicable provisions of this ordinance and/or the statutes of the State. He or she shall also be obliged to seize and impound any rabies suspect animal.
  - (5) The Animal Control Officer shall assume the duty (provided in Section 316 of Act 339 of the Public Acts of 1919, being Section 287.276 of the Compiled Laws of 1948, (MSA Section 12.526, as amended), to determine and locate all unlicensed dogs, to list such dogs and to deliver such list to the Prosecuting Attorney for the necessary proceedings as provided by the ordinance and/or statutes of the State.

- (6) The Animal Control Officer, his or her deputies or assistants are hereby authorized and empowered, in accordance with the provisions of this ordinance and an appropriate search warrant, to enter upon private premises for the purpose of inspecting same for the purpose of determining the harboring, keeping and possessing of any dog or dogs for the specific purpose of determining if the owner(s) of said dogs have complied with the appropriate provisions of the ordinance and to apprehend and take with him or her any dogs for whom no license has been procured in accordance with this ordinance or for any other violation thereof. The provisions of this subsection shall specifically include but not be limited to, investigation of, or seizure for, cruelty to animals.
  - (7) The Animal Control Officer shall have the right to inspect any kennel, with a license which has been issued pursuant to this ordinance or the statutes of the State, and shall have the duty to suspend said license if, in his or her opinion, conditions exist which are unhealthy or inhumane to the animals kept therein pending correction of such conditions, and further shall have the duty to revoke said license if such conditions are not corrected within a reasonable period of time.
  - (8) The Animal Control Officer shall have the right to investigate complaints of dogs or other animals alleged to be dangerous to persons or property and shall have the right to seize, take up and impound such animals.
  - (9) The Animal Control Officer shall have the right to investigate the complaints of cruelty to dogs or other animals, livestock or poultry and shall have the right to seize, take up and impound any dog or other animal, livestock or poultry which has been subject to such cruelty.
  - (10) The Animal Control Officer shall have such other duties relating to enforcement of this ordinance as the GTB Tribal Council may from time to time provide.
- (d) It shall be the further duties of the Animal Control Officer, his or her deputies or assistants, to enforce the provisions of this ordinance and the statutes of the State pertaining to dogs and other animals, and may make complaint to the appropriate Tribal Court or other appropriate court in regard to any violation thereof.
  - (e) The Animal Control Officer, his or her deputies or assistants shall dispose of any animal, livestock or poultry seized, taken up and/or impounded as provided for herein; in accordance with the provisions of this ordinance and/or the statutes of the State.
  - (f) All suspensions and/or revocations of licenses and all seizures for cruelty or dangerousness as provided herein, shall be in accordance with such rules and regulations as are adapted from time to time by the GTB Tribal Council.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

## **§ 304 - Licensing and Vaccination**

- (a) It shall be unlawful for:
- (1) any person to own any dog six (6) months old or over unless the dog is licensed in accordance with Tribal law or the law of the State of Michigan, or to own any dog six (6) months old or over that does not at all times wear a collar with a tag approved by the Director of Michigan Department of Agriculture attached, as hereinafter provided, except when engaged in lawful hunting accompanied by its owner; or
  - (2) any owner of any female dog to permit the female dog to go beyond the premises of such owner when she is in heat, unless the female dog is held properly in leash, or for any person except the owner, to remove any collar and/or license tag from a dog; or
  - (3) any owner to allow any dog, except working dogs such as leader dogs, farm dogs, hunting dogs and other dogs, when accompanied by their owner while actively engaged in activities for which such dogs are trained, to stray unless held properly in leash.
- (b) Any person who owns, keeps or operates a kennel may in lieu of individual licenses required under this ordinance and under the laws of the State of Michigan, a kennel license entitling him or her to own, keep or operate such kennel in accordance with the applicable laws of the State.
- (c) Any person who, at any one time, owns more than three (3) dogs in any combination, except a duly licensed pet shop, at any single location within the boundaries of the GTB Reservation, shall, on or before March 1st of the year following such ownership, obtain a kennel license if the person qualifies under Act 339, Public Acts of 1919, as amended.
- (1) This section shall not apply to a litter of puppies when with the mother of such, so long as said dogs are less than six (6) months of age.
  - (2) Failure to obtain such kennel license shall be punished as set forth in the penalty provision of this ordinance.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

## **§ 305 - Confinement**

- (a) Any dog or other animal kept as a pet that shall bite a person, animal, or livestock shall be securely confined by the owner thereof inside an appropriate building or enclosure for a minimum period of ten (10) days following the biting of such person, animal, or livestock.
- (1) In the event that the owner of such animal shall fail to securely confine the animal for such period of time, then in that event, the Animal Control Officer, his or her



deputies or assistants, may take possession and custody of such animal, confine him or her at the animal shelter until the expiration of said ten (10) day period and upon satisfactory evidence that the animal is not suffering from rabies. Said animal shall be kept at the animal shelter at the expense of the owner thereof in the event that the person charged with the duty to securely confine said animal as aforesaid shall fail to do so.

- (2) Any dog or other animal running loose after biting a person, animal or livestock, and whose owner cannot be determined, shall be confined for a period of ten (10) days at the animal shelter in accordance with the provisions of this section, and thereafter disposed of in accordance with the provisions of this ordinance, or such regulations as are in effect at the animal shelter.
- (b) Any other animal not kept as a pet, including wild animals, which shall bite a human or animal, shall, if located, be confined for the required ten (10) days at the animal shelter or other suitable location.
- (c) Every dog and other animal shall at all times between sunset and sunrise of the following day be confined upon the premises of its owner except when such dog or other animal is otherwise under the reasonable control of the owner.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 306 - Animal Shelter and Impoundment**

- (a) All dogs found running at large shall be seized by the Animal Control Officer, his or her deputies or assistants, or other peace officers, and impounded for a period of not less than five (5) days, and may thereafter be sold or disposed of if not claimed by the owner.
- (b) When dogs are found running at large, and their ownership is known to the Animal Control Officer, his or her deputies or assistants, or other peace officers, such dog need not be impounded but the Animal Control Officer, his or her deputies or assistants, or other peace officers may, at their discretion, cite the owner of such dog to appear in court to answer charges of violation of this ordinance.
- (c) Immediately upon impounding a dog or other animal, the Animal Control Officer shall make every reasonable effort to notify the owner of such dog or other animal so impounded and inform such owner of the conditions whereby custody of such dog or other animal may be regained pursuant to the regulations for the operation of the animal shelter.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 307 - Killing and Seizing**

- (a) Any person may kill any dog or animal which he sees in the act of pursuing, attacking or about to attack, or wounding any livestock or poultry or attacking persons, and there shall be no liability on such person in damages or otherwise, for such killing.
  - (1) Any dog or other animal that enters any field or enclosure which is owned or leased by a person producing livestock or poultry, unaccompanied by his or her owner, shall constitute a private nuisance, and the owner or lessee of such field or other enclosure, or his or her agent or servant, may kill such dog or other animal while it is in the field or other enclosure without liability for such killing.
  - (2) In no event shall the provisions of this section exonerate a person from compliance with the criminal laws of this State, including, by way of example, the safe discharge of firearms.
- (b) It shall be lawful for any person to seize any dog or other animal running at large in violation of this ordinance and to turn said dog or other animal over to the Animal Control Officer, his or her deputies or assistants.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 308 - Cruelty to Animals**

It shall be unlawful for:

- (a) Any owner of any dog, livestock or poultry to fail to provide any dog, livestock or poultry with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and to withhold and not to give humane care and treatment.
- (b) No person shall beat, cruelly treat, torment, overload, overwork or otherwise abuse any dog, livestock or poultry or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.
- (c) The owner of any dog, animal, livestock or poultry shall not abandon any such dog, animal, livestock or poultry for a period of longer than forty-eight (48) hours.
- (d) No person shall crop a dog's ears, except a licensed veterinarian, who will issue a signed certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation.
- (e) Should an operator of a motor vehicle strike a domestic animal, he shall stop immediately and render such assistance as may be possible, and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 309 - Enumeration of Certain Violations and Procedures Therefore**

- (a) It shall be unlawful for:
- (1) Any dog of any age, licensed or unlicensed, wearing a collar or not wearing a collar, to run at large, provided, however, that a dog engaged in hunting need not be leashed when under the reasonable control of its owner.
  - (2) Any dog, at any age, licensed or unlicensed, wearing a collar or not wearing a collar, except a leader dog accompanied by its owner, to be within the confines of any public park when such park, by appropriated designation at its entrance, prohibits dogs.
  - (3) Any dog, at any time, licensed or unlicensed, to destroy property, real or personal, or to trespass in a damaging way on property of persons other than the owner.
  - (4) Any dog or other animal at any time, licensed or unlicensed, to attack or bite a person.
  - (5) Any dog to show vicious habits and molest passersby when such persons are lawfully on the public highway or right-of-way.
  - (6) Any person to own any dog which, by loud or frequent barking, howling or yelping, is a nuisance in the neighborhood in which such dog is kept, possessed or harbored.
  - (7) Any livestock or poultry to run at large unaccompanied by its owner upon the premises of another or upon any public street, lane, alley or other public ground in the county unless otherwise specifically allowed.
  - (8) Any person to remove a collar or tag from any dog or other animal without the permission of its owner or to decoy or entice any dog or other animal out of an enclosure or off the property of its owner, or to seize, molest or tease any dog or other animal while held or led by any person or while on the property of its owner.
- (b) In the event of any such violations or of a violation of any other provision of this ordinance or of the laws of the State, the Animal Control Officer, his or her deputies or assistants or other peace officer may issue an appearance ticket, citation or summons to the owner of said dog, animal, livestock or poultry, summoning them to appear before a Tribal Court or other appropriate Court within the Reservation to answer the charges made in violation of this ordinance.
- (1) The said Animal Control Officer, his or her deputies or assistants or other peace officer may sign a complaint before said court for violation of a warrant and make arrest of the person to whom said violation is charged and bring him or her before the court to answer the charges.

- (2) The court may in such case, at its discretion, and upon a finding of guilty, assess the penalties in accordance with the penalty provision of this ordinance.
- (c) In the event of any such violations or of a violation of any other provision of this ordinance or of the laws of the State, an Animal Control Officer, his or her deputies or assistants or other peace officer of any other person may proceed to obtain authorization of the Prosecuting Attorney and make complaint before a Tribal Court or other appropriate court within the county and obtain the issuance of a summon similar to that provided in Act 339 of the Public Acts of 1919, being Section 287.280 of the Compiled Laws of 1948 (MSA Section 12.530), as amended, to show cause why such dog, animal, livestock or poultry should not be killed.
  - (1) Upon such hearing the judge may either order the dog, animal, livestock or poultry killed, may order such dog, animal, livestock or poultry confined to the premises of the owner, or may make such other order regarding the dog, animal, livestock or poultry as it deems proper and necessary under the circumstances, in addition to any of the penalties enumerated herein.
- (d) Costs, as in civil cases, shall be taxed against the owner of the dog, animal, livestock or poultry and collected by the court from the person complained against upon a finding of guilty. The provisions of this paragraph shall be in the alternative to the provisions for violations set forth in the preceding paragraph and the Animal Control Officer, his or her deputies or assistants or other peace officer may, at his or her direction, proceed under either section.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 310 - Penalty**

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a civil infraction and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.).

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 311 - Preservation of Certain Rights**

- (a) Nothing in this ordinance shall be construed to prevent the owner of a licensed dog from recovery in an action of law from any peace officer or any other person, except as herein provided.
- (b) Nothing in this ordinance shall be construed as limiting the common law liability of the owner of a dog or other animal for damages committed by said dog or other animal.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 312 - Licensing Authority Records and Duties**

In all prosecutions for violation of this ordinance, the records of the Licensing Authority, or lack of same, showing the name of the owner and the license number to whom any license was issued, and the license tag affixed to the collar or harness of the dog showing a corresponding number, shall be prima facie evidence of ownership or non-ownership of any dog and of issuance or non-issuance of a dog license or tag.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 313 - Census**

- (a) It shall be the duty of the Animal Control Officer annually to make a census of the number of dogs owned by all persons on the Grand Traverse Band Reservation in accordance with the state law.
  - (1) The Animal Control Officer is hereby empowered to employ whatever personnel he or she reasonably believes necessary to conduct his or her census.
  - (2) Such personnel shall receive for their services in listing such dogs such sum as shall be set from time to time by the GTB Tribal Council.
- (b) The duties and obligations herein imposed upon the respective designated officials may be delegated to some other appropriate person or persons by each of said officials with like force and effect.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 314 - Construction**

- (a) When not inconsistent with the context, words used in the present tense include the future. Words in the singular include the plural and words in the plural include the singular. Masculine shall include the feminine and neuter. The word “shall” is always mandatory and not merely directive. Words or terms not defined herein shall be interpreted in the manner of their common meaning. Headings shall be deemed for convenience only and shall not limit the scope of any section of this ordinance.
- (b) The regulations of this ordinance are minimum standards supplemental to the rules and regulations duly enacted by the Michigan Department of Health and to the laws of the State of Michigan relating to public health. If any part of this ordinance shall be held void,

such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

### **§ 315 - Repeal**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

History: Animal Control ordinance adopted by Tribal Council on October 19, 1993. As amended by Tribal Act #04-22.1445 enacted by Tribal Council at Special Session on November 24, 2004.

## **Chapter 4 - Liquor Control**

### **§ 401 - Short Title**

This ordinance may be cited as the “Liquor Ordinance” of the Grand Traverse Band of Ottawa and Chippewa Indians.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

### **§ 402 - Authority**

As required by 18 U.S.C. § 1161, this ordinance is in conformity with relevant provisions of State law and is enacted pursuant to Article IV of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

### **§ 403 - Interpretation**

- (a) This ordinance shall be deemed an exercise of the police and regulatory powers of the Grand Traverse Band of Ottawa and Chippewa Indians in order to promote Tribal self-determination and to protect the public welfare, and all provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

- (b) Nothing in this ordinance may be construed as a waiver of Tribal sovereign immunity.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 404 - Definitions**

In this ordinance, unless the context otherwise requires:

- (a) “alcoholic beverage” means any of the following:
- (1) Any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of one percent (0.5%) or more alcohol by volume, which is commonly used or reasonably adopted to use for beverage purposes;
  - (2) Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or other cereal in potable water;
  - (3) Any product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than twenty-one percent (21%) of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks;
  - (4) Any beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than twenty-one percent (21%) by volume, except sacramental wine and mixed spirit drink;
  - (5) Any drink or similar product marketed as a wine cooler that contains less than seven percent (7%) alcohol by volume, consists of wine or cider and plain, sparkling or carbonated water, and contains any one (1) or more of the following: (a) nonalcoholic beverages; (b) flavoring; (c) coloring materials; (d) fruit juices; (e) fruit adjuncts; (f) sugar; (g) carbon dioxide; (h) preservatives.
- (b) “liquor” means any alcoholic beverage.
- (c) “person” means a natural person, firm, association, corporation, or other legal entity.
- (d) “premises” means specified locations within Tribal lands where alcoholic beverages may be sold as described in a license issued by the Tribal Council.
- (e) “Secretary” means the Secretary of the United States Department of the Interior.
- (f) “State” means the State of Michigan, which regulates matters pertaining to the consumption, possession, delivery and/or sale of alcoholic beverages within the State through its Liquor Control Commission.

- (g) “Tribal Council” means the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (h) “Tribal lands” means:
  - (1) Land within the limits of the Grand Traverse Band of Ottawa and Chippewa Indians’ Reservation, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and/or
  - (2) Land over which the Grand Traverse Band of Ottawa and Chippewa Indians exercises governmental power and which is either held in trust by the United States for the benefit of the Grand Traverse Band, or held by the Tribe or by one (1) of its members subject to restriction by the United States against alienation.
- (i) “Tribal license” means an official action by the Tribal Council which authorizes the manufacture and/or sale of alcoholic beverages for consumption either on the premises and/or away from the premises. The manufacture, sale and/or delivery of alcoholic beverages intended for consumption away from Tribal lands must also comply with relevant provisions of State law.
- (j) “Tribal representative” means the Tribal Manager, a program director, or manager of a subsidiary enterprise of the Tribe.
- (k) “Tribe” means the Grand Traverse Band of Ottawa and Chippewa Indians.
- (l) “vendor” means a person licensed under this ordinance to sell alcoholic beverages, or a person employed by a vendor to do so.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

**§ 405 - Public Policy Declared**

- (a) It is the policy of the Tribe that no manufacture, sale, delivery, or importation of alcoholic beverages shall occur in Tribal lands unless such manufacture, sale, delivery or importation is by a person licensed under this ordinance to do so, or by prior written order of the Tribal Council.
- (b) All alcoholic beverages for sale, use, storage, or distribution in Tribal lands shall originally be purchased by and imported into Tribal lands by a person licensed under this ordinance to do so, unless such alcoholic beverages are manufactured under appropriate Tribal license within the Tribal lands, or by prior written order of the Tribal Council.
- (c) This section shall not apply in the case of alcoholic beverages brought into Tribal lands personally by a person aged twenty-one (21) years or older to purchase or manufacture alcoholic beverages for personal or household use.



History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 406 - General Provisions**

- (a) Except in compliance with this ordinance, no person shall sell, trade, transport, manufacture, use or possess any alcoholic beverage or any other substance whatsoever which is capable of producing alcohol or other intoxication, intended for consumption on the premises, nor may any person aid or abet another person in doing any of the foregoing.
- (b) No vendor shall permit any person under the age of eighteen (18) on premises licensed under this ordinance, unless accompanied by an adult who is the legal guardian or parent of the minor.
- (c) No vendor shall sell, serve or allow to be consumed on premises licensed under this ordinance, alcoholic beverages other than during the hours permitted by its license.
- (d) Except in compliance with this ordinance, no person shall sell, trade, transport, manufacture, use or possess any alcoholic beverage, or any other substance whatsoever which is capable of producing alcohol or other intoxication, intended for distribution away from premises, nor may any person aid or abet another person in any of the foregoing.
- (e) It shall be a violation of this ordinance for any person, by himself or by his agent or employee, to manufacture, sell, offer for sale, or possess any alcoholic beverage which is adulterated or misbranded or any alcoholic beverage in bottles which have been refilled. For the purposes of this section:
  - (1) Alcoholic beverages shall be deemed adulterated if they contain any liquid or other ingredient not placed there by the original manufacturer or bottler, other than by order of a consumer for immediate consumption on the premises;
  - (2) Alcoholic beverages shall be deemed misbranded when not plainly labeled, marked or otherwise designated;
  - (3) Alcoholic beverages bottles shall be deemed to be refilled when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer.
  - (4) This Subsection 406(e) does not apply to beer containers. [cf. MCL 436.2005(5)]
- (f) It shall be a violation of this ordinance for any vendor to sell or furnish any alcoholic beverage to a person unless that person has attained twenty-one (21) years of age.
  - (1) No vendor may knowingly sell or furnish any alcoholic beverage to a person who is younger than twenty-one (21) years of age, or fail to make diligent inquiry as to whether the person is twenty-one (21) years of age.

- (2) A suitable sign which describes this section and the penalties for violating this section shall be posted in a conspicuous place in each room where alcoholic beverages are sold.
- (g) It shall be a violation of this ordinance for any vendor to sell or furnish any alcoholic beverage to any person who is visibly intoxicated at the time, or who is known to the vendor to be a habitual drunkard.
- (h) It shall be a violation of this ordinance for any person younger than twenty-one (21) years of age to purchase, attempt to purchase, possess or consume any alcoholic beverage, or for such a person to misrepresent his age for the purpose of purchasing or attempting to purchase such alcoholic beverage.
- (i) Upon attempt to purchase any alcoholic beverage on premises licensed under this ordinance by any person who appears to the vendor to be younger than twenty-one (21) years of age, that vendor shall demand, and the prospective purchaser upon such demand shall display, satisfactory evidence that he is of legal age. It shall be a violation of this ordinance for any person to present to any vendor falsified evidence as to his age.
- (j) No person under this ordinance shall make any delivery of any alcoholic beverage outside the premises described in the license, unless the license permits distribution of alcoholic liquor for consumption away from the premises.
- (k) No person, directly or indirectly, himself or herself or by his or her clerk, agent or employee shall manufacture, manufacture for sale, sell, offer or keep for sale, barter, furnish, or import, import for sale, transport for hire, or transport, or possess any alcoholic beverage unless that person complies with this ordinance.
- (l) In order to retain its alcoholic beverage license under this ordinance, any Tribal operation is required to comply with other applicable Tribal law, as well as with the provisions of this ordinance.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 407 - Tribal Alcoholic Beverage Licenses**

- (a) Upon written authorization by a Tribal representative, the Tribal Council may issue a license authorizing:
  - (1) The manufacture and/or sale of alcoholic beverages intended solely for consumption on the premises; and/or
  - (2) The manufacture and/or sale of alcoholic beverages intended solely for consumption away from the premises.

- (b) All such license applications must set forth the purpose for which the license is sought, together with a description of the premises upon which the alcoholic beverage manufacture and/or sales are proposed to take place.
- (c) In its sole discretion, the Tribal Council shall have the power and authority to determine the numbers and types of alcoholic beverage licenses to be issued pursuant to this ordinance.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 408 - Complaint of Violation**

- (a) Any complaint regarding violation of any provision of this ordinance shall be referred to the Tribal Prosecutor, who may cause such complaint to be placed in writing and served personally or by registered mail upon the licensee or other person against whom that complaint is made.
- (b) A hearing on any such complaint shall be held by the Tribal Court not less than seven (7) days nor more than twenty-eight (28) days after service of the complaint upon the licensee or other person against whom that complaint is made.
- (c) Any Indian person [defined in 9 GTBC § 102(a)] who violates any provision of this ordinance may be charged with a misdemeanor criminal offense and may be prosecuted pursuant to 9 GTBC § 107(s). If convicted, the Tribal Court may impose a fine of not greater than one thousand dollars (\$1,000), or imprisonment not exceeding sixty (60) days in the Tribal jail, or by both such fine and imprisonment.
- (d) Any non-Indian person who violates any provision of this ordinance may be charged with and prosecuted for a civil offense, and if convicted, may be subject to civil sanctions which the Tribal Council may prescribe, and/or may be excluded from Tribal lands.
- (e) Any person who violates any provision of this ordinance for which a specific penalty is not provided shall be subject to a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5,000), or by imprisonment in the Tribal jail for not more than sixty (60) days, or by both such fine and imprisonment, plus costs.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 409 - Severability**

If any section or provision of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of this

ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 410 - Amendment or Repeal of this Ordinance**

This ordinance may be amended or repealed only by majority vote of the Tribal Council in regular session.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

#### **§ 411 - Effective Date**

The effective date of this ordinance shall be the date upon which it is certified by the Secretary or his delegate and published in the Federal Register in accordance with 18 U.S.C. § 1161.

History: Liquor Ordinance, adopted by Tribal Council on November 23, 1993, memorialized and submitted to the Secretary of the Interior in Tribal Act #93-11.84; as amended by Tribal motion, enacted by the Tribal Council 7-27-2016.

### **Chapter 5 - Food Service Ordinance**

#### **§ 501 - Purpose**

The purpose of this ordinance is to protect the public from food borne illnesses and diseases.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

#### **§ 502 - Definitions**

For the purpose of this code:



- (a) “Commissary” means a location where food is stored, prepared, or otherwise handled to provide prepared food for sale via a vehicle or other means of sale.
- (b) “Council” means the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (c) “Environmental Health Advisor” means the GTB Tribal Health Service Registered Sanitarian or his/her designee.
- (d) “Food” means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (e) “Food Borne Illness” means an illness, disease or discomfort brought on by the consumption of food.
- (f) “Food Service Establishment” means a unit or location where food is processed and intended for immediate consumption. The term includes any such place whether consumption is on or off the premises. Food Service Establishments shall be of three (3) categories:
  - (1) Class I: Full service with cooking, preparation, storage and beverages.
  - (2) Class II: Small scale facility. Usually delegated to hot dogs, potato chips, popcorn.
  - (3) Class III: Sells only prepackaged food products. No seating.
- (g) “GTB” means the Grand Traverse Band of Ottawa and Chippewa Indians, a federally-recognized Indian tribe.
- (h) “Health Director” means the duly appointed GTB Health Services Director or his/her designee.
- (i) “Imminent Public Health Hazard” means threatening, menacing, or perilous in the judgment of the inspector.
- (j) “Retail Food Outlet” means a unit or location at which food is offered for sale or distribution with no cutting, mixing, grinding, packaging, or processing.
- (k) “Temporary Food Service Establishment” means a food service establishment that operates at a fixed location for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration. Temporary Food Service Establishments shall be of three (3) categories:
  - (1) Class I: Full service with cooking, preparation, storage and beverages.
  - (2) Class II: Small scale facility. Usually delegated to hot dogs, potato chips, popcorn.

- (3) Class III: Sells only prepackaged food products. No seating.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

### **§ 503 - Food Service Permits**

- (a) No person shall operate a food service establishment who does not have a valid Food Service Permit issued by the Health Director.
- (b) Only a person who complies with the requirements of this ordinance shall be entitled to receive or retain such a permit.
- (c) Permits are not transferable.
- (d) A valid permit shall be posted in every food service establishment.
- (e) The sale of fresh fish is not governed by this Act, but is separately regulated by federal law in 21 C.F.R. 123 and 124, of the Federal Food, Drug and Cosmetic Act.
- (f) Permanent, non-temporary commercial food service establishments operating on trust lands of the Grand Traverse Band of Ottawa and Chippewa Indians must possess an unsuspended, unrevoked Food Service Permit from the Health Director. Food service permits will be issued as follows:
- (g) All permanent facilities must meet the general requirements of the “1995 Food Code U.S. Public Health Service” or the 1982 edition of the Food and Drug Administration’s “Retail Food Store Sanitation Code” or “Regulation 541 of the Michigan Department of Agriculture Food Division” for smoked fish, whichever applicable and any other policies developed by the Tribe regarding, for example, compliance time frames.
  - (1) The Environmental Health Advisor shall submit a completed food service establishment inspection report to the Health Director.
  - (2) The Health Director shall issue a Food Service Permit if the following conditions are met:
    - (A) A score of at least “75” out of a perfect “100” was recorded on Form FDA 2420, or Form FDA 3079, and
    - (B) There were no “critical item” deficiencies noted on Form FDA 2420 or FDA Form 3079.
    - (C) Food Service Permits shall be issued for a twelve (12) month period following approval by the Health Director. Renewal of the permit is to be accomplished by notifying the Health Director, who will then request the Environmental Health Advisor to inspect the premises.

- (D) Food Service Permits shall be displayed in a conspicuous location within food service establishments.
- (h) No person shall operate a temporary food service establishment who does not have a valid Temporary Food Service Permit issued to him/her by the Health Director of the Grand Traverse Band.
- (1) Only a person who complies with the requirements of this ordinance shall be entitled to receive or retain such a permit.
  - (2) Permits are not transferable. Temporary Food Service Permits shall terminate fourteen (14) days from the date of issue.
  - (3) Temporary food service establishments, operating on trust lands of the Grand Traverse Band, must possess an unsuspended, unrevoked Temporary Food Service Permit from the Health Director of the GTB. Temporary Food Service Permits will be issued as follows:
    - (A) All temporary facilities must meet the general requirements of the GTB'S "Temporary Food Service Guidelines".
    - (B) The Health Director shall issue a Temporary Food Service Permit to the operator of a temporary food service facility if the operator of said establishment has reviewed the "Temporary Food Service Guidelines" and signed an agreement to comply with these guidelines.
    - (C) Temporary food service permits shall be issued for a period of time as designated by the Health Director.
    - (D) Temporary Food Service Permits shall be prominently displayed within the food service establishment.
- (i) Three (3) copies of the "1995 Food Code U.S. Public Health Service", "Retail Food Store Sanitation Code", "Regulation 541 of the Michigan Department of Agriculture Food Division" and the "Temporary Food Service Guidelines" shall be on file in the office of the Health Director.
- (j) All food service employees will be required to obtain and possess a current Food Handler Certificate. The Food Handler Certificate will be issued by the Health Director and will be valid for one year after issuance.
- (1) To obtain a Food Handler Certificate, the food service employees must attend a Food Service Training Session, sponsored by the GTB Health Department, and present the negative results of a tuberculosis (Manteaux) test.
  - (2) Food Service Training Sessions will be presented at least twice a year as published by the Health Director. Manteaux tests will be available from the GTB Health Department.



- (3) Copies of all Food Service Permits, Temporary Food Service Permits, and Food Handler Certificates will be maintained by the GTB Health Director or his/her designee.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

#### **§ 504 - Inspections**

- (a) The GTB Tribal Council delegates inspection authority of all food service establishments on trust lands of the GTB to the Health Director and Environmental Health Advisor.
- (b) Inspections shall be conducted at least annually of all permanent, non-temporary food service establishments by the Environmental Health Advisor or his/her designee, and findings shall be reported utilizing the Food Service Establishments Inspection Report Form FDA 2420 or Form FDA 3079. Commercial establishment reports will be sent to the owner/operator of the facility, the Chairman of the GTB Tribal Council, and the Health Director of the GTB.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

#### **§ 505 - Termination of Permits**

If any individual or party, subject to the jurisdiction of the GTB, who also operates a food service establishment required to possess a Food Service Permit or a Temporary Food Service Permit, violates the aforementioned provisions, such violation shall constitute grounds for termination of that person's permit to trade on trust lands of the GTB by the GTB Health Director.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

#### **§ 506 - Enforcement, Cease & Desist Orders, Misdemeanor, Temporary Restraining Orders, Seizure and Forfeiture**

- (a) The GTB Sanitarian or his/her designee shall be responsible for the enforcement of the terms and conditions of this Food Service Ordinance.
- (b) The Sanitarian shall issue a Cease and Desist Order to any food vendor, temporary or permanent, who is not in compliance, with the Food Service Ordinance and when it has been determined there is an existing or an imminent public health hazard.
- (c) The Cease and Desist Order shall be placed on the vendor's premises in a place clearly visible to the public. The Cease and Desist Order shall state that the GTB Sanitarian has ordered this establishment to cease and desist from selling food until such time as the establishment is in compliance with this Food Service Ordinance.

- (d) It shall be a misdemeanor for any food vendor to sell food without a valid permit. The misdemeanor shall be punishable in Tribal Court by a jail term not to exceed ninety (90) days and/or a fine not to exceed one hundred dollars (\$100.00).
- (e) If a food vendor continues to operate after the issuance of a Cease and Desist Order and/or a citation issued by Tribal Law Enforcement, the Sanitarian, his or her designee, or Tribal Law Enforcement may obtain, ex-parte, a Temporary Restraining Order from the Tribal Court ordering the closure of the food vending establishment.
- (f) All equipment used in a food vending operation which is in violation of this Food Service Ordinance shall be subject to seizure and may be forfeited to the Tribe upon the petition of the Tribal Prosecutor and a hearing in Tribal Court.

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

### **§ 507 - Effective Period of Ordinance**

- (a) This ordinance shall be in full force and in effect immediately after its adoption and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.
- (b) Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected.
- (c) Any part of this ordinance may be amended by the GTB Tribal Council by a majority vote.
- (d) Upon the adoption of this ordinance there shall be allowed, one year, a time period in which to fulfill all of its administrative requirements (creation and issuance of forms, permits and certificates).

History: Tribal Act #96-15.450, enacted by Tribal Council on December 17, 1996.

## **Chapter 6 - Application of Non-Tribal Laws**

### **§ 601 - Adoption of State Laws and Ordinances**

- (a) The Grand Traverse Band adopts the laws, codes, ordinances, and other instruments of the law of the State of Michigan to the extent these instruments, laws, codes, and ordinances do not conflict with appropriate federal law or Tribal codes, ordinances, and laws in force now or enacted in the future.
- (b) This is an interim measure effectuated with the interests of our specific citizenry, and all visitors to the reservation, in mind.

History: Tribal Act #85-363, enacted by Tribal Council on December 18, 1985.

CROSS-REFERENCE: This section (“Application of non-Tribal Laws”) is also included in 9 GTBC § 201 (the Criminal Offenses title).

### **§ 602 - Incorporation of State and Local Laws**

The Grand Traverse Band of Ottawa and Chippewa Indians incorporates by reference and adopts as a Tribal ordinance the International Codes and specifically the version(s) published for use within the State of Michigan, as amended in the future, as well as the other standards referenced in Resolution No. 01-19.1006 enacted on June 20, 2001, with the following provisos:

- (a) that the Tribe’s Zoning Administrator shall administer these standards and determine that appropriate requirements are followed for all activities upon Tribal lands;
- (b) that the Tribal Council shall issue any necessary licenses upon request from the Administrator showing that the appropriate requirements are satisfied; and
- (c) that upon recommendation of the Administrator and for good cause shown, the Tribal Council may approve a waiver of any standard, law or regulation which might otherwise be applicable.

History: Tribal Act #83-121, enacted by Tribal Council on February 25, 1983; as amended by Tribal Act. #01-19.1006, enacted by Tribal Council on June 20, 2001.

CROSS-REFERENCE: This provision is also contained in 12 GTBC § 301 (Infrastructure title).

### **§ 603 - Adoption of State of Michigan’s Vehicle Code**

The Tribal Council of the Grand Traverse Band hereby adopts the Michigan Vehicle Code on a permanent basis.

History: Tribal Act #92-10.28, enacted by Tribal Council on April 21, 1992. The Michigan Vehicle Code had previously been adopted on a one year trial basis in Tribal Act #90-839, enacted by Tribal Council on May 19, 1990.

CROSS-REFERENCE: This provision is also contained in 9 GTBC § 202 (the “Criminal Offenses” title).

## **Chapter 7 - Firearms**

### **§ 701 - Adoption of Michigan Firearms Laws**

- (a) The general laws of the State of Michigan governing firearms are adopted by reference and shall apply to Tribal lands as well.

- (b) To the extent Michigan law requires licenses to purchase, carry or transport a pistol and/or other concealed weapon (see M.C.L.A. §§ 28.422, 28.426, and 28.42a), such application for licenses shall be made to this Tribal Council acting as the licensing board in lieu of the board(s) prescribed in state law.
- (c) Firearms possessed upon Tribal lands in contravention of state law and/or without required licenses issued by this Tribal Council shall be subject to forfeiture.

History: Tribal Act #84-255, enacted by Tribal Council on October 16, 1984.

## **Chapter 8 - Hazardous Materials Releases**

### **§ 801 – Intent**

The surface waters, groundwater, soils, vegetation and atmosphere inside the reservation are susceptible to damage from the handling, storage, use, processing and disposal of hazardous material. The expense incurred by the Tribe as a result of Grand Traverse Band Fire/Rescue Department having to respond to protect life, property and the environment by preventing or mitigating a release of hazardous materials should be recovered from the person responsible for the release or threatened release.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 802 – Definitions**

As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (a) “CFR” shall mean the Code of Federal Regulations.
- (b) “Designee” shall mean the Northwestern Regional Hazardous Materials Response Team or such other public or private agency authorized in writing by the Tribe to respond to hazardous materials incidents within the Grand Traverse Reservation or on trust lands.
- (c) “Emergency action” shall mean all of the activities conducted in order to prevent imminent injury or mitigate injury to human health or to the environment inside the Grand Traverse Band from a release or threatened release of any hazardous material into or upon the environment.
- (d) “Hazardous material” shall mean any of the following:
  - (1) Any material listed in 49 CFR § 173.2, as may be amended, as a hazardous material;
  - (2) Any material listed in 40 CFR § 401.15, as may be amended, as a toxic pollutant;

- (3) Any material designated as a hazardous material and regulated as such by the law of the State of Michigan; and
- (4) Petroleum and petroleum-based products which retain any of the hazardous characteristics of raw petroleum.
- (e) “Person” shall include any individual and any corporation, association, partnership, firm, trustee, or legal representative.
- (f) “Release” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into or upon the environment, which causes dangers or harm to the public health or to the environment; including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation, or by any township ordinance.
- (g) “Response” shall mean action by the Tribe or its designee to contain, clean-up or mitigate injury to the environment or to people caused by a release or threatened release of hazardous materials in a manner other than as an emergency action.
- (h) “Threatened release” shall mean any imminent or impending event with the potential to cause a release, and which causes the Tribe to undertake an emergency action to prevent a release.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 803 - Notice and Response**

- (a) Any person who handles or stores hazardous materials that, if released, would cause damage to the surface waters, groundwater, soils or atmosphere shall notify the Tribe prior to transporting hazardous materials onto the reservation for handling or storage and/or immediately upon release.
- (b) The requirements of this ordinance shall not be construed to forbid or forgive any person from using all diligence necessary to control a hazardous material release prior or subsequent to the notification of the Tribe, especially if such efforts may result in the containment of the release or the abatement of extreme hazard to the employees or the general public. Delays in reporting releases due to in-house notification of off-site owners or supervisors shall result in penalties. Nothing in this ordinance shall be construed to exempt or release any person from any other notification or reporting required by any Tribal, state or federal agency or with all applicable regulations and laws.
- (c) The Tribal Council, Fire Chief, or the Tribal Manager are authorized to direct a response or an emergency action and the clean-up and abatement of any release, or threatened release, within the Tribe.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

#### **§ 804 - Liability for Costs**

- (a) Any person who causes a release or a threatened release, or who contributes to the same, shall be liable to the Tribe for recoverable costs incurred by a response or an emergency action.
- (b) The following described persons shall be jointly and severally liable to the Tribe for the payment of all costs incurred by the Tribe as a result of such cleanup or abatement activity:
  - (1) Any person whose negligent or willful act or omission proximately caused such release, discharge or deposit; and
  - (2) Any person who owned or had custody or control of the hazardous material or the material at the time of such release, discharge, or deposit, without regard to fault or proximate cause.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

#### **§ 805 - Recovery of Costs**

- (a) The Tribe or its designee shall keep an itemized record of recoverable costs resulting from a release or threatened release, including any response or an emergency action.
- (b) The Tribe or its designee shall submit a written itemized claim to the responsible person for the total costs incurred related to the release or threatened release and any emergency action with written notice that unless the amounts are paid in full within thirty (30) days after the date of the mailing of the claim and notice, a civil action will be commenced seeking recovery for the stated amount plus any amounts occasioned by such suit.
- (c) For the purposes of this ordinance, costs of the Tribe or its designee shall mean all direct and indirect costs and shall include, but not be limited to, the following:
  - (1) Actual labor cost of personnel, including workers' compensation benefits, including continuing costs to an employer, and fringe benefits;
  - (2) Administrative overhead;
  - (3) Costs of equipment operation;
  - (4) Costs of materials;
  - (5) Laboratory costs of analyzing samples taken during the emergency action;

- (6) Medical expenses incurred as a result of response activities;
  - (7) Costs of any contract labor;
  - (8) Costs to supervise or verify the adequacy of the cleanup or abatement by others; and
  - (9) Legal expenses that may be incurred as a result of the response or emergency action, including actions for recoverable expenses pursuant to this ordinance.
- (d) Costs recovered related to the response or emergency action incurred by the Tribe's designee shall be transferred to the designee as soon as possible.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 806 - Civil Suit**

The Tribe or its designee may bring a civil action for payment of the recoverable costs against any and all persons liable under this ordinance. All costs of such suit, including actual costs and attorney fees, shall also be a recoverable cost within the same civil action.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 807 - Tribal, State or Federal Law**

- (a) Nothing in this ordinance shall be construed to conflict with Tribal, state or federal laws requiring persons causing or responsible for release or threatened release from engaging in remediation activities or paying the cost thereof, or both.
- (b) Nothing in this ordinance shall prevent the criminal or civil liability of any person under any applicable tribal, federal or state law or regulation.
- (c) Failure of a person to comply with an applicable tribal, federal or state law or regulation governing the transportation, use, storage, handling or disposal of hazardous material shall establish prima facie liability to the Tribe or its designee for recoverable costs incurred by a response or emergency action.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 808 - Nonexclusive Remedy**

The remedies provided by this ordinance shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 809 - No Waiver of Sovereign Immunity**

Nothing in this ordinance shall be interpreted as waiving the sovereign immunity of the Tribe or any designee entitled to the same.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 810 - Effective Date**

- (a) The effective date of this Ordinance shall be the 21st day of November 2000.
- (b) The effective date of the amendments to this ordinance adopted January 20, 2016 shall be February 19, 2016.

History: Tribal Act #01-19.1007, enacted by Tribal Council on May 16, 2001. Amended by Tribal Act #15-33.2688, January 20, 2016; and enacted by Tribal Council on February 19, 2016.

### **§ 811 - Clean-up Standards**

- (a) Adoption and Application of Standards.
  - (1) The Tribe hereby adopts and shall apply the clean-up standards set forth in the Michigan Department of Environmental Quality Clean-up Criteria Requirements for Response Activity, as amended, which is incorporated herein by reference.
  - (2) If a necessary clean-up standard is not identified, or if a release or threatened release involves multiple materials with multiple health effects, the Tribe may determine the appropriate clean-up standard by reference to comparable tribal, state or federal clean-up standards, or the Tribe may consult with tribal, state and federal agencies, or institutes of higher learning, or other entities or persons with expertise in the clean-up of hazardous or toxic materials and/or human or environmental toxicology to determine the appropriate clean-up level that protects human health (consistent with Tribal practices and consumptive uses) and the environment.
  - (3) The Tribe may develop and adopt specific clean-up standards for application under this ordinance. In developing these standards, the Tribe may consult with tribal, state and federal agencies, or institutes of higher learning, or other entities or persons with expertise in the clean-up of hazardous or toxic materials and/or human or environmental toxicology to determine the appropriate clean-up level that protects human health (consistent with Tribal practices and consumptive uses) and the environment. Upon enactment by Tribal Council of such clean-up standards, which shall be in the form of amendment(s) to this ordinance, such standards shall,



on the effective date determined by the Council, become enforceable hereunder and shall supersede previously applicable standards.

History: Enacted by Tribal Council on February 19, 2016.

## **Chapter 9 - Exclusion Act**

### **§ 901 - Title; Purpose**

- (a) This Act shall be known as the “Exclusion Act.”
- (b) The purpose of this Act shall be to provide for the Tribe’s inherent right to exclude from Tribal lands persons or other parties whom the Tribal Council determines to be *persona non grata*, in accordance with Article IV, Section 1(g).
- (c) Exclusion under this Act shall be an action of last resort, or used in emergency situations or under exigent circumstances only.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

### **§ 902 - Power to Exclude**

- (a) The power to exclude persons or parties from Tribal lands or property shall lie exclusively in the Grand Traverse Band Tribal Council and shall not be delegated.
- (b) An exclusion ordered under this Act may be from all, or any portion, of Tribal lands or property.
- (c) An exclusion ordered under this Act may be for any period of time or may be permanent. An exclusion may also be for an intermittent period of time.
- (d) Exclusions may be conditional, and could be subject to stipulations that involve restitution to the Band or to individuals; compliance with restraining orders; or any other condition which the Tribal Council deems appropriate.
- (e) For purposes of this Act, “Tribal lands or property” shall include all lands defined as “Indian country” by 18 U.S.C. § 1151, as well as any other real property owned or controlled by the Grand Traverse Band or any of its agencies or entities.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

### **§ 903 - Persons/Parties Subject to Exclusion**

Any person or party may be excluded in accordance with this Act unless such exclusion violates applicable Grand Traverse Band Tribal or federal law.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

**§ 904 - Exercising Power to Exclude**

- (a) Exclusion of any person or party shall be done through enactment of a written resolution of the Tribal Council after it has conducted a hearing which provides the person/party to be affected an opportunity to respond to the Tribal Council's grounds for exclusion.
  - (1) All hearings and exclusions under this Act shall be done during an open session of Tribal Council.
  - (2) At such hearing, the Tribal Council shall make public its reasons for proposing to exclude the person/party in question. Such reasons must be based upon one or more of the following:
    - (A) A threat to public health, safety or welfare, including recurring criminal activity;
    - (B) A threat to the natural resources or environment;
    - (C) Fraudulent business activity involving Tribal members, Tribal entities or Tribal properties;
    - (D) Gross interference with Tribal administration or law enforcement; or
    - (E) Intentional interference, or interference resulting from grossly negligent activity, with Tribal ceremonies or cultural activities.
  - (3) The applicable reasons set forth in Subsection (2) above shall be recited in the resolution of exclusion, along with a recitation of facts supporting such reasons.
  - (4) At the Tribal Council hearing, after the person/party affected has been provided with a detailed explanation of the reasons and facts supporting the proposed exclusion, such



- person/party shall be provided reasonable opportunity to rebut the reasoning given and otherwise make a case for why exclusion is not proper. This opportunity shall include the ability to cross-examine any witnesses who testify at the hearing in support of the exclusion. No formal rules of procedure or rules of evidence shall govern such Tribal Council hearing.
- (5) Only after following the procedures set forth in this section may Tribal Council vote on the resolution of exclusion. In order to be effective, a resolution under this Act must be approved by at least five (5) members of the Council.
  - (6) Such resolution must contain the date/time when the exclusion becomes effective. The affected person/party must be notified of the effective date/time in accordance with the provisions of Subsection (b) below.
  - (7) Due to its responsibility for public safety and the public interest, the Tribal Council shall have broad discretion to enact a resolution of exclusion under this Act within the parameters established under the above Subsection (2).
- (b) Best efforts shall be made by the Tribal Council and/or its designee to provide written notice to the affected person/party of both the hearing and any subsequent exclusion. Service may be effected by mailing such notice to the last known address for the affected person/party.
- (1) Such notice shall be served:
    - (A) In the case of a Tribal Council hearing, no later than five (5) calendar days prior to the date of hearing; and
    - (B) In the case of an enacted exclusion resolution, no later than five (5) business days from the date of the resolution's enactment.
  - (2) If a person has notice of the exclusion, and its terms, due to being present at time of the resolution's enactment by Tribal Council, such notice shall fulfill the requirements of this section although written notice shall also be provided in accordance with the provisions of this section.
  - (3) For purposes of 14 GTBC § 907 of this Act, the affected person/party shall not be criminally liable for violation of the terms of exclusion prior to service of the notice provided under this subsection. If the only service of notice was conducted by mail, the affected person/party shall not be criminally liable for violation of the terms of exclusion until two (2) days after the date such notice was mailed, provided however that such liability may be incurred if it can be proven that the person/party was aware of the enacted exclusion and its terms prior to receipt of the notice via mail.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

## **§ 905 - Appeal to Tribal Court**

- (a) Any person or party who has been the subject of an enacted exclusion resolution under this Act shall have the right to appeal such exclusion in the Grand Traverse Band Tribal Court. Such appeal must be filed in the Tribal Court within six (6) months of the date the resolution of exclusion was enacted.
- (b) Within three (3) weeks of the date an appeal is filed, the Tribal Court shall conduct a review of the record to determine whether or not the Tribal Council properly excluded the appellant in accordance with the provisions of this Act.
- (c) The Tribal Court shall be required to find by clear and convincing evidence that the Tribal Council acted properly under this Act. The burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the Council did not so act.
- (d) The Tribal Court shall respect the broad discretion which the GTB Constitution and this Act vests in the Tribal Council with respect to its powers of exclusion.
- (e) In any appeal, the Tribal Court shall be limited to a review of the Tribal Council's action concerning such exclusion. The Tribal Court may not conduct a *de novo* hearing with respect to the exclusion.
- (f) The decision of the Tribal Court must be released within five (5) days of the hearing or, if the hearing was continued/adjourned for any purpose, within five (5) days of the last court proceeding on the matter.
- (g) The decision of the Tribal Court may be appealed by either party to the Tribal Appellate Court. Such appeal must be filed within six (6) months from the date the Tribal Court decision was filed.
- (h) The person/party excluded shall be allowed re-entry onto Tribal property for the limited time and purpose of attending any hearings or proceedings under this section. The Tribal Court is encouraged to recite this statutory authority for re-entry on its notices of hearings to the affected person/party.
- (i) With the exception set forth in Subsection (h) above, an exclusion shall remain in effect at all times during the pendency of the appeal.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

## **§ 906 - Emergency Exclusions**

- (a) In the event that the Tribal Council determines that there is an immediate need to order the exclusion of a person or party from Tribal property and that the issuance of notice and an opportunity for a hearing would cause a delay that could be harmful to the Grand Traverse Band, its property or members, or other residents of Tribal property, the Tribal Council may enact, via written resolution, an emergency exclusion which shall be immediately effective.

Such resolution shall contain the reasons for such exclusion, as required in 14 GTBC § 904(a)(2)-(3) above, and must be approved by at least five (5) members of the Council.

- (b) Immediately after enactment of such an emergency exclusion, the Council shall notify the person/party of the exclusion. The Council shall provide the person/party with a copy of the resolution and notice of the hearing to be held.
  - (1) With the exception of it being held after an exclusion has been enacted, the hearing shall generally comply with the provisions set forth in 14 GTBC § 904 above, and shall afford the affected person/party the opportunity to rebut the Council's findings and request a rescindment of the exclusion.
  - (2) The person/party excluded shall be allowed re-entry onto Tribal property for the limited time and purpose of attending the Council hearing.
- (c) After the opportunity for a hearing under this section, the affected person/party may pursue an appeal to the Tribal Court in accordance with 14 GTBC § 905 of this Act.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

#### **§ 907 - Violation of a Criminal or Civil Offense**

- (a) Violation of the terms of an exclusion ordered under this Act, by an individual subject to the criminal jurisdiction of the Band, shall constitute a criminal offense punishable by one (1) year imprisonment and/or a fine of five thousand dollars (\$5,000.) and the criminal offense of Trespass, as codified at 9 GTBC § 107(j)(4), is hereby incorporated by reference in this subsection.
- (b) Violation of the terms of an exclusion ordered under this Act, by an individual subject to the civil jurisdiction of the Band, shall constitute a civil offense punishable by a fine of five thousand dollars (\$5,000.).

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003. As amended by Tribal Act #06-24.1713 enacted by Tribal Council at Special Session on September 27, 2006.

#### **§ 908 - Recovery of Costs**

- (a) An exclusion order enacted under this Act may include a requirement for the person/party excluded to pay initial costs associated with his or her exclusion. Such costs could include, but are not limited to, such costs as may be incurred for: execution of an eviction; any additional law enforcement effort required to ensure an individual complies with an exclusion order; recovery of Tribal property; costs to remove personal property left behind by the excluded individual; etc.
- (b) If an assessment has been sent or otherwise provided to an individual under this section but payment has not been received by the Grand Traverse Band within sixty (60) days of the date of service (date of mailing if sent via mail), the Tribal Prosecutor may move the Tribal Court

to hold a hearing at which the individual shall show cause as to why he or she should not be charged with a criminal offense under 14 GTBC § 907 of this Act.

History: Tribal Act #03-21.1245, enacted by Tribal Council on September 17, 2003.

## **Chapter 10 - Marina Operation Code**

### **§ 1001 - Authority**

- (a) The Constitution of the Grand Traverse Band vests in the Tribal Council all sovereign governmental executive and legislative powers. These powers include the power to regulate the health, safety, and welfare of the tribe and its members; manage its economic affairs; levy and collect fees and assessments; and maintain law and order within the tribe's jurisdiction.
- (b) Use of the sheltered waters of the Grand Traverse Bay and other waters is a historical right and cultural prerogative of the Grand Traverse Band. Accordingly, the Tribal Council is obligated to regulate such use to maximize its potential to the benefit of the Tribe and its members, and preserve it for future generations.

History: Enacted by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1002 - Commercial and Subsistence Fishing Marinas**

- (a) There are established two marinas for use by commercial and subsistence fishers exercising treaty-protected fishing rights in the Great Lakes: the Arthur Duhamel Memorial Marina in Peshawbestown, and the Beaver's Landing Marina on Beaver Island.
- (b) Supervision and management of the commercial and subsistence fishing marinas in existence or as may be established is delegated to the Natural Resources Department for exercise by a Harbormaster.
- (c) The Harbormaster is delegated such regulatory authority as necessary to create regulations for the safe, efficient, and accessible use of the marinas under his or her supervision and management. The Harbormaster may establish or amend regulations, in writing, to be effective on approval of the Natural Resources and Environmental Committee. Regulations shall be posted at the Harbormaster's office and at all commercial and subsistence fishing marinas.
- (d) Sections §§ 1003 - 1017 of this Marina Operations Code do not apply to commercial and subsistence fishing marinas.

History: Enacted by Tribal Council in motion Regular Session on August 15, 2018.

### **§ 1003 - Grand Traverse Band Municipal Marina Port Authority**

- (a) The Tribal Council adopted Resolution #07-25.1707 at a Regular Session on May 16, 2007. Said resolution established the Grand Traverse Band Municipal Marina Port Authority.
- (b) The Tribal Council may, in its discretion, designate marinas for use other than commercial and/or subsistence fishing to be supervised and managed by the Grand Traverse Band Municipal Marina Port Authority and this Marina Operations Code.

History: Enacted by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1004 - Definitions**

The following terms, as used in this code, are hereby defined to have the following meanings. All other terms shall have their regular dictionary meanings.

- (a) “Vessel” means a craft designed to navigate on water.
- (b) “GTB” or “Owner” means the Grand Traverse Band of Ottawa and Chippewa Indians.
- (c) “Tenant” means the person assigned to a seasonal or transient slip.
- (d) “Dinghy” means a human powered or outboard powered watercraft, less than twelve (12) feet in length, which is designed to carry people from their vessel to a dock or to shore.
- (e) “Marina” shall mean the Grand Traverse Band Municipal Marina.

History: Tribal Act #7-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1005 - Rules and Procedures for the Operation of the Waiting List**

- (a) The GTB Marina shall keep two (2) waiting lists, one (1) for vessels thirty-four (34) feet to forty-eight (48) feet and one for vessels forty-eight (48) feet one (1) inch to eighty (80) feet. No vessels larger than eighty (80) feet may be moored in the Marina. The waiting lists are operated as an annual renewal for which the Grand Traverse Band sends out notices. The waiting list fee is due no later than January 31st of each year. If not received by February 1st, a ten percent (10%) late penalty will be assessed. If a renewal is not returned by February 1st the name shall be removed from the waiting list.
- (b) The Grand Traverse Band shall establish the fee for the waiting list in the Grand Traverse



Band's Schedule of Fees.

- (c) The waiting list fee shall not be considered any part of the lease fee if a person obtains a slip lease.
- (d) The intent of the slip renewals is to give each applicant the opportunity to update any information such as mailing address, phone number or vessel information. All changes and updated information shall be submitted with the annual renewal slip to allow Grand Traverse Band to update its records.
- (e) Any applicant may increase or decrease his/her vessel size within the range of the list on which he/she is placed without the risk of losing his/her position. If the applicant changes his/her vessel size so that it no longer is in the range of the list on which he/she is reserved, he/she forfeits his/her place on the original list and will be placed at the end of the other list.
- (f) Any applicant may ask to be placed on both lists at his/her discretion upon paying each annual fee, and shall be entitled to the reservation of his/her selection at the time a slip becomes available. Upon obtaining a slip lease only the vessel for which he/she obtained the lease may be kept in the slip once a slip is obtained. Changing to a different vessel places him/her at risk of forfeiture of a future slip.
- (g) Grand Traverse band may reject any application for the waiting list at its own discretion.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion on August 15, 2018.

**§ 1006 - Determination of Selection from Waiting List**

- (a) Selection from the waiting list for a lease shall be granted to the first person on each list according to slip size availability. This placement shall be based on the vessel information provided by the applicant and shall not be substituted without prior authorization from the Harbormaster.
- (b) Grand Traverse Band will make reasonable attempts to contact the applicant according to the information provided during the annual renewal. It is the applicant's responsibility to notify Grand Traverse Band of any change in contact information and Grand Traverse Band is not responsible if the applicant fails to update information.
- (c) Grand Traverse Band will first attempt by telephone to contact the next person with the appropriate size vessel for the available slip to notify them of a slip's availability. Grand Traverse Band shall leave a message if possible and the applicant then has seventy-two (72) hours to return the call. If Grand Traverse Band must leave a message, a notice shall be mailed or emailed the same day to the person. The person receiving such mail or email must reply immediately upon receipt of notice.

- (d) If Grand Traverse Band is not successful in contacting the first applicant as described above, Grand Traverse Band will contact the next applicant following the above guidelines, and will continue this process until an applicant has been reached and the slip has been assigned.
- (e) All applicants may reject their first slip offer without risk of losing their place on the waiting list. A second rejection of a slip assignment shall result in the applicant being removed from their place on the list and placed at the bottom of the list. The Grand Traverse Band is not required to send notice when placing the applicant at the end of their list.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

#### **§ 1007 - Selection of Annual Slip Tenants**

- (a) Grand Traverse Band shall send annual lease renewals to current tenants.
- (b) Prior-year tenants shall be given first right of refusal for the coming year's leases. However, Grand Traverse Band reserves the right to refuse any lease at its own discretion.
- (c) Full payment of the lease is due to Grand Traverse Band no later than February 15th of each year. Any payments received between February 16th and March 1st shall be subject to a ten percent (10%) late penalty. Any penalties MUST be paid in full for the lease to be fully paid.
- (d) No payments made after March 1st shall be accepted. Any slip in which the lease has not been paid in full prior to March 1st shall be available for lease to another tenant at the discretion of Grand Traverse Band.
- (e) All vessels shall be identified at the time of lease payment. Proof of identification shall include vessel ownership, size, length, draft, beam, and power or sail. The vessel shall be registered and insured in the name of the tenant. If the registration or insurance information does not match the application, the application will be returned without being processed.
- (f) Grand Traverse Band shall assign all available slips after March 15th and before March 31st of each year.
- (g) If a tenant changes to a vessel of a different size, he/she may risk losing his/her slip assignment. Tenants who have changed or will be changing vessels from the prior year shall contact the Harbormaster for prior approval of the vessel. Grand Traverse Band may reject a vessel change in the Marina.
- (h) Grand Traverse Band may, at any time, change any slip assignments deemed in the best

interests of Grand Traverse Band.

- (i) Dinghy slip leases are available on a first come, first serve basis each year. Dinghy slips shall be available after January 1st of each season. No leases, applications or payments shall be accepted before January 1st. Prior tenants do not have any priority for dinghy leases.
- (j) No tenant may sublease or rent his/her slip to any person at any time.
- (k) The tenant shall be responsible for any property damage, nuisance or violations of this Marina Code, including those caused by a visitor of the tenant or an invited guest.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

#### **§ 1008 - Marina Season**

- (a) The Grand Traverse Band Municipal Marina season begins May 15th and ends October 31st of each year. The Marina bathhouse and restrooms, water service, electric, pump outs or gas pumps might not be open or functional prior to this date.
- (b) Vessels may be placed in the Marina between April 15th and May 15th only with the expressed permission of the Harbormaster and only after the tenant has provided updated copies of vessel registration and proof of insurance to Grand Traverse Band for the Harbormaster's review and approval.
- (c) All vessels and personal equipment shall be removed from the Marina and public lands no later than November 15th.
- (d) If any vessel remains in the Marina after November 15th, the owner shall be charged twice the established daily rate.
- (e) If any vessel remains in the Marina after November 30th, it shall be removed from the Marina and impounded by Grand Traverse Band. The tenant shall be responsible for one and one-half times the costs incurred by Grand Traverse Band for the removal and impound of the vessel. The impound fees shall be established in Grand Traverse Band's Schedule of Fees.
- (f) Neither the Grand Traverse Band nor any company working in conjunction with the Grand Traverse Band to remove any vessel from the Marina shall be liable for damages to a vessel removed from the Marina as provided in this Code.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1009 - Hours of Operation**

- (a) Unless otherwise specified the Marina's hours of operation shall be:

May 15th through June 23rd: 8:00 a.m. to 6:00 p.m.  
June 24th through September 5th: 8:00 a.m. to 8:00 p.m.  
September 6th through October 15th: 8:00 a.m. to 6:00 p.m.  
After October 15th: by appointment only

- (b) If there is an emergency after the posted hours, all calls shall be placed to 911.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1010 - General Provisions**

- (a) It is the responsibility of every Marina user, tenant, or transient user to know and comply with this code. Grand Traverse Band shall supply each current and new tenant with a copy of this code at the time it is adopted, or at the time a tenant is offered a seasonal slip. A copy of this code shall be made available on Grand Traverse Band's website and shall be posted at the Harbormaster's office in plain view for all transient users to review. This code shall supersede any and all prior rules or regulations. All tenants shall comply with this Code and, at the time they accept a seasonal, day use, or transient rental, affirm they will comply with the Code by paying the Marina slip annual lease, day rental, or transient fee.
- (b) Tenants shall notify the Harbormaster if leaving the slip for twenty-four (24) hours or longer. Slips vacated for twenty-four (24) hours or longer may be rented at the discretion of the Harbormaster. In the event of extended absences from the slip, the slip holder may be required to use an alternative assigned slip for up to three (3) days until his or her slip becomes available.
- (c) The Marina is a no-wake zone with a maximum speed of five (5) nautical miles per hour (mph).
- (d) All slip users shall supply their own bumpers.
- (e) All tenants shall immediately report any damage or deficiencies to a Marina employee.
- (f) Tenant may place one (1) enclosed storage box near the entrance to their dock, in which personal effects may be stored. Other than those objects stored in the box or on the boat, tenants shall not keep any personal effects on the premises. If a tenant uses such storage box, it must be removed no later than November 15th, or the box and its contents will be deemed abandoned, and Grand Traverse Band may, without notice, dispose of the box and

any contents in any manner it deems appropriate, without liability to tenant.

- (g) No open flames or cooking shall be permitted within one hundred (100) feet of the gas storage tank, unless it is on a vessel specifically designed with below-deck kitchen facilities.
- (h) Tenants shall keep pets on a leash at all times when on land and shall not permit the pet to run at large. The tenant is responsible for clean up of his/her pet and disposal of droppings in approved waste containers.
- (i) It is unlawful for any slip holder to turn off, dismantle, or damage lighting in or around the Marina.
- (j) Tenant may have only the registered vessel in the slip. Tenant may keep a dinghy in the slip, provided the dinghy is tied to or placed on the vessel, and does not protrude into any other slip or beyond the dock. No dinghy may be kept in a slip unless the registered vessel is also in the slip. Any motorized dinghy must be registered with owner, who must also provide the insurance and registration information required for a vessel, and the dinghy must be registered and insured in the name of tenant.
- (k) Minor maintenance and repairs are permissible in the slips. Exterior painting, varnishing or restoration work shall not be done with the vessel in the slip; all major work shall only be done on dry docked vessels.
- (l) No swimming is permitted in the main Marina basin or off the Marina pier.
- (m) If any vessel has a gas or oil leak, the owner is responsible for the immediate containment of the leak. If any vessel is found with a gas or oil leak it shall be immediately removed from the Marina by its owner. If the vessel's owner cannot be immediately located, Grand Traverse Band may remove the vessel without the owner's prior consent. The owner shall be responsible to Grand Traverse Band for all costs associated with removal of the vessel and/or clean up. Grand Traverse Band shall not be responsible for damage to the vessel in the event of such removal.
- (n) The tenant is responsible for ensuring his/her vessel is in proper working order and afloat. The tenant is responsible for immediately removing his/her vessel from the Marina in the event that it may be in danger of sinking. Grand Traverse Band may immediately remove any such vessel from the Marina without the owner's prior consent. The Harbormaster shall notify the owner of a vessel removed under this section immediately. The owner shall be responsible to Grand Traverse Band for the cost of removal of the vessel and/or any cleanup cost. Grand Traverse Band shall not be responsible for damage to the vessel in the event of emergency removal.
- (o) Grand Traverse Band Municipal Marina is open to the general public during normal business hours. The tenants shall comply with the rules and regulations regarding noise and nuisances as provided in this Code. No tenant shall play audio devices at levels that disturb adjacent boaters. No tenant shall permit his/her pet to bark in a manner causing a nuisance to adjacent slip holders.

- (p) No overnight camping is allowed other than on boats.
- (q) No fireworks are permitted in the Marina at any time.
- (r) No commercial operations are permitted in the Marina at any time without prior approval of Grand Traverse Band Municipal Marina Port Authority.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

### **§ 1011 - Transient Rentals and Day Use**

- (a) Transient and day use rentals are on a first come, first serve basis. The Marina does not accept prior reservations.
- (b) All transient and day use boaters must immediately report to the Harbor office to complete the required forms and make payment. All transient and day use boaters are required to pay in advance for one (1) night at the time of arrival. Grand Traverse Band requires all transient renters to provide a credit card number at the time of registration upon which unpaid balances shall be billed.
- (c) Transient boaters who arrive after business hours shall complete the registration form available at the Harbormaster's office upon arrival, and shall include the slip number and slip where they have docked. The transient shall confirm the slip they entered is open to transient boaters by searching the map located at the office. A transient shall not rent or dock at any slip not assigned or designated as a transient slip unless designated to do so by Marina staff.
- (d) Transients understand the slip they arrived at after hours may not be available for rent and Grand Traverse Band may if necessary move the transient to another slip.
- (e) Transients shall immediately remove their vessel from a slip which is not available for rent.
- (f) Transient boaters may stay at the Marina as space permits for a maximum of two (2) weeks and shall be charged full day rate fees for the entire time they are in the Marina.
- (g) Transient check out is 12:00 p.m. Transients who remain in the Marina after 12:00 p.m. shall be charged an additional day.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

## **§ 1012 - Enforcement**

- (a) The Harbormaster and any GTB Police Officer or other officer deputized by the Grand Traverse Band is hereby authorized to issue municipal civil infraction citations directing alleged violators of this Code to appear in Tribal court.
- (b) The Harbormaster may enforce any provision of this code up to and including eviction of any tenant, visitor, guest or day-user.
- (c) Any person who does not remove him/herself from the Marina as ordered by the Harbormaster or a police officer is guilty of misdemeanor trespassing.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

## **§ 1013 - Violations and Penalties**

- (a) Any person who violates any provision of this Code, except Section 1009(c), shall be responsible for a Tribal civil infraction as defined.
  - (1) For a first offense within three-year period: fifty dollars (\$50).
  - (2) For a second offense within three-year period: one hundred twenty five dollars (\$125).
  - (3) For a third offense within a three-year period: two hundred fifty dollars (\$250).
  - (4) For a fourth or subsequent offense within a three-year period: four hundred dollars (\$400).
- (b) Any person who knowingly violates Section 1012(c) of this code shall be subject to a civil fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) for each violation.
- (c) Each day this code is violated shall be considered a separate violation.
- (d) Citations for violations of this code may be issued by sworn officers of the GTB Tribal Police Department or the Tribal Conservation Department, or by a sworn officer acting under a valid cross-deputation agreement.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

**§ 1014 - Nuisance Per Se**

A violation of this Code is hereby declared to be a nuisance per se and is declared to be in violation of the public health, safety and welfare of Grand Traverse Band.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

**§ 1015 - Separate Court Action**

In addition to enforcing this code through the use of a municipal civil infraction proceeding, Grand Traverse Band may initiate proceedings in the Tribal Court to abate or eliminate the nuisance per se or any other violation of this Code.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

**§ 1016 - Validity**

If any section, provision or clause of this code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or applications of this Code, which can be given effect without the invalid portion or application.

History: Tribal Act #07-25.1851, enacted by Tribal Council in Special Session on September 26, 2007; amended by Tribal Council motion in Regular Session on August 15, 2018.

**§ 1017 - Effective Date**

This Code shall become effective upon adoption by Tribal Council.

**Chapter 11 – Anti-Dumping Ordinance**

**§ 1101 - Findings**



- (a) The Tribal Council finds that the Grand Traverse Band retains the inherent sovereign authority to regulate access to its lands, and to regulate the behavior and conduct of individuals present upon those lands.
- (b) The Tribal Council finds that this authority is reaffirmed through federal case law, including, but not limited to, *Merrion v. Jicarilla*, 455 U.S. 130 (1982), *Water Wheel Camp Recreational Area, Inc. v. Larance*, 642 F. 3d 802 (2011), and *Atkinson Trading Co. v Shirley*, 532 U.S. 645 (2001).

History: Tribal motion, enacted by the Tribal Council August 16, 2017.

### **§ 1102 - Purpose**

The purpose of this ordinance is to provide for the civil regulation of non-member access to tribal lands, and to regulate such non-members' conduct while present.

History: Tribal motion, enacted by the Tribal Council August 16, 2017.

### **§ 1103 - Dumping prohibited**

No person shall dump or cause to be dumped, or place or cause to be placed, or leave any garbage, refuse, rubbish, junk, debris, furniture, appliances, inoperative or derelict automobiles, boats, trucks, or other vehicles, or any parts thereof, or weeds or trash of a vegetative nature or any used or scrapped building materials on any lands or premises of the Grand Traverse Band, whether improved or unimproved.

History: Tribal motion, enacted by the Tribal Council August 16, 2017.

### **§ 1104 - Enforcement**

The Tribal Police Department may issue a civil infraction citation to any person in violation of this ordinance. Such citation may carry a recovery of costs and compensation to the Grand Traverse Band of up to five thousand dollars (\$5,000) assessed by the Tribal Court.

History: Tribal motion, enacted by the Tribal Council August 16, 2017.

### **§ 1105 - Limitation**

Nothing about this ordinance shall limit the ability of members of the Grand Traverse Band to participate in designated "clean-up" seasons designated by the Tribal government by following the directives for such participation.

History: Tribal motion, enacted by the Tribal Council August 16, 2017.