

TITLE 3 JUSTICE

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Chapter 1 - Office of Tribal Prosecutor

§ 101 - Appointment and Compensation

- (a) Appointment of the Tribal Prosecutor shall be by an affirmative vote of a majority of the Tribal Council for a term of two (2) years.
- (b) The Tribal Council shall have the power to establish the level of compensation for the Tribal Prosecutor.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992; Tribal Act #03-21.1179 enacted by Tribal Council on January 15, 2003; and by Tribal Council motion on September 30, 2015.

§ 102 - Qualification

- (a) Any person shall be eligible to serve as Tribal Prosecutor only if he/she:
 - (1) Is an attorney in good standing licensed to practice law in any state in the United States and/or is a member of the Grand Traverse Band who has attained the age of eighteen (18);
 - (2) Has not been convicted, within ten (10) years of such appointment, of any felony by a court of competent jurisdiction: and
 - (3) The Tribal Prosecutor shall attend training and seminars and accumulate continuing legal education units equal to the requirements of the State Bar of Michigan for new lawyers, in order to stay current on trends in criminal and civil matters pertaining to his or her function as prosecutor.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 103 - Prosecutor's Office Shall Function Within Justice Division

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

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 104 - Duties of Tribal Prosecutor

- (a) The Tribal Prosecutor shall:
- (1) be the chief law enforcement officer of the Tribe and shall be responsible for all criminal investigations and prosecutions in Tribal Court, including arraignments, motions, trials and appeals.
 - (2) have the discretion to prosecute violations of the Tribe's constitution, criminal code, ordinances and resolutions in Tribal Court.
 - (3) work closely with the Tribal Court Administrator and Tribal Judge to improve the delivery of services within the Tribal Court and to assist the Court in case management and docket preparation.
 - (4) serve as presenting officer in the Tribe's Children's Court and represent the Tribe in Indian Child Welfare cases in state jurisdictions upon the authorization of the ICW Committee or the Tribal Court.
 - (5) prosecute violations of the Tribe's fishing and conservation regulations as well as the regulations of the Chippewa-Ottawa Treaty Fishing Management Authority, in the Tribe's Conservation Court.
 - (6) establish a working relationship with local, state and federal jurisdictions and establish a protocol for coordinating criminal investigations and prosecutions with such local, state and federal jurisdictions.
 - (7) review all charges and complaints of violations of Tribal codes and ordinances and determine what charges to bring and whom to charge.
 - (8) review all requests for arrest warrants and search warrants to determine if all constitutional requirements are satisfied prior to approval or authorization.
 - (9) serve, in his/her civil capacity, as in-house counsel for the various departments of Tribal government and shall render legal opinions when requested to do so.
- (b) The Tribal Prosecutor may give advice to Tribal members and employees and shall provide pro-bono services to Tribal elders or Tribal members who are having legal problems which may be related to their status as Native Americans. These services may

only be provided as time permits and may not take priority over normal prosecutorial duties.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 105 - Prosecutorial Subpoena Power

- (a) The Tribal Prosecutor is hereby empowered to issue subpoenas for compelling or producing documentation in criminal investigations and investigations into civil violations of the GTB Constitution.
- (b) A person subpoenaed may be represented by counsel.
- (c) A person subpoenaed may invoke his/her constitutional privilege against self-incrimination.
- (d) The Tribal Prosecutor shall have the power, with Tribal Court approval, to grant immunity to any witness. Once indemnified, in writing, a witness may not refuse to answer questions covered by the immunity agreement.
- (e) A person who refuses to testify pursuant to a prosecutorial subpoena, after being granted immunity, may be brought before the Tribal Court to show cause why he/she should not be held in contempt of court.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 106 - Conflict of Interest, Absence, Disability, Inability of Tribal Prosecutor to Act; Appointment of Special Prosecutor

- (a) In case of conflict of interest, or the absence, disability or inability of the Tribal Prosecutor to act, the Tribal Court upon motion of an interested party or on its own motion, may appoint an attorney to serve as Special Prosecutor.
- (b) The Special Prosecutor shall have all of the authority of the Tribal Prosecutor for that occasion.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 107 - Tribal Prosecutor Not to Act in Civil Matter

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

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 108 - Removal of Tribal Prosecutor

- (a) The Tribal Council may, by an affirmative vote of a majority of its members, refer the Tribal Prosecutor to the Tribal Judiciary for removal from office for any of the following reasons:
 - (1) Official misconduct
 - (2) Willful neglect of duty
 - (3) Gross misconduct
 - (4) Conviction of a Felony
 - (5) Disbarment by any state
 - (6) Mental or physical incapacity
 - (7) Unethical conduct as defined by the American Bar Association
- (b) The Tribal Prosecutor shall be notified in person or by registered mail, at least ten (10) days before any meeting at which the Tribal Prosecutor's removal is to be considered.
- (c) The notice of intent to refer for removal shall set forth, with specificity, the alleged grounds for removal and inform the Tribal Prosecutor that he/she may appear to defend against such referral.
- (d) If the Tribal Council votes to refer the Tribal Prosecutor to the Tribal Judiciary for removal, the grounds shall be set forth with specificity and the Tribal Prosecutor shall be suspended with pay until the Tribal Judiciary rules on the referral.
- (e) Before the Tribal Judiciary rules on the Tribal Prosecutor's removal from office, it shall afford the Tribal Prosecutor a hearing upon due notice at which time he/she may answer the charges.
- (f) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council exist, the Tribal Judiciary, by a majority vote of all members, shall remove the Tribal Prosecutor from office.
- (g) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council do not exist, the suspended Tribal Prosecutor shall be fully reinstated to office.

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

§ 109 - Incorporation

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

History: Tribal Act #91-976, enacted by Tribal Council on October 15, 1991. As amended by Tribal Act #92-10.66, enacted by Tribal Council on September 15, 1992.

Chapter 2 - Separate Funding for Tribal Court**§ 201 - Funding Allocated to Tribal Court as Branch of Government**

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

History: Tribal Act #96-14.317, enacted by Tribal Council on February 20, 1996.

Chapter 3 - Limited Personal Jurisdiction Over Tribal Members**§ 301 - Statement of Purpose**

The purpose of this statute is to establish personal jurisdiction of the Tribal Court.

History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998.

§ 302 - Definitions

- (a) "Exterior Boundaries of the Reservation" means townships 29, 30, and 31 north range 11 west, and townships 29, 30, and 31 north, range 12 west, and the east half of township 29 north, range 9 west as delineated in the Treaty of 1855 July 31, 1855, 11 Stat. 621.
- (b) "Indian Country," as used in this chapter "means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." 18 U.S.C. § 1151.

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

- (c) “Indian Country Jurisdiction” defines the geographic area in which Tribal and federal laws normally apply and state laws normally do not apply.
- (d) “Service Area” defines the geographic area in which Tribal and federal domestic assistance laws apply for the delivery of domestic, health, education and welfare services to eligible Tribal members and non-members.

History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998.

§ 303 - Limited Personal Jurisdiction Over Tribal Members

- (a) The existence of any of the following relationships between a Tribal member of the Grand Traverse Band or his/her agent and the Tribe shall constitute a sufficient basis of jurisdiction to enable the Tribal Court to exercise limited personal jurisdiction over the GTB Tribal member and to enable the Tribal Court to render personal judgments against the Tribal member or his/her representative arising out of an act which creates any of the following relationships:
 - (1) The transaction of any business within the exterior boundaries of the reservation or land held in trust.
 - (2) The doing or causing of an act to be done, or consequences to occur, within the exterior boundaries of the reservation or land held in trust, resulting in an action for tort.
 - (3) The ownership, use, or possession of real or tangible personal property situated within the exterior boundaries of the reservation or land held in trust.
 - (4) Contracting to insure a person, property, or risk located within the exterior boundaries of the reservation or land held in trust at the time of contracting.
 - (5) Entering into a contract for services to be rendered or for materials to be furnished within the exterior boundaries of the reservation or land held in trust by the defendant.
 - (6) Acting as a director, manager, trustee, or other officer of a corporation incorporated under the laws of, or having its principal place of business within the exterior boundaries of the reservation or land held in trust for the Tribe.
 - (7) Maintaining a domicile within the exterior boundaries of the reservation or land held in trust while subject to a marital or family relationship which is the basis of the claim for divorce, alimony, separate maintenance, property settlement, child support, or child custody.

- (8) Residence within the Tribe's service area for purposes of compelled process of the Tribal Court.
- (9) Receipt of services or benefits of the Tribe by a Tribal member who resides in the service area will be deemed sufficient minimum contacts to require the Tribal member to maintain Tribal citizenship duties such as serving on juries, committees or other public citizenship obligations of Tribal membership.

History: Limited Personal Jurisdiction Act, adopted by Tribal Council on May 13, 1998.

Chapter 4 - Grand Traverse Band Arbitration Code

§ 401 - Short Title and Purpose

- (a) Short title. This code shall be entitled "The Grand Traverse Band Arbitration Code."
- (b) Purpose. It is the purpose of this Code to authorize the arbitration of disputes in contractual agreements and to provide for the enforcement of agreements to arbitrate, and resulting arbitration awards, by the Tribal Court.

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

§ 402 - Scope of Code and Repeal of Inconsistent Provisions

- (a) Scope. This Code applies to any written contract or other instrument entered into by the Grand Traverse Band, by any subdivision, instrumentality or agency of the Band, or by any other person in a transaction that is subject to the jurisdiction of the Band, in which:
(1) the parties thereto agree to settle by arbitration any controversy arising out of such contract or other instrument, and (2) the Tribal Council designates, by resolution, that this Code shall apply.
- (b) Inconsistent provisions. Any prior legislation or other Band laws that are inconsistent with the purpose and procedures established by this Code are hereby repealed to the extent of any such inconsistency.

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

§ 403 - Enforceability of Agreements to Arbitrate

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

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

§ 404 - Law to be Applied

- (a) In any contract or other instrument described in § 402(a) of this Code, the parties may agree upon the jurisdiction whose substantive law shall govern the interpretation and enforcement of the contract, instrument or controversy. Such choice of law shall be valid and enforceable, and not subject to revocation by one party without the consent of the other party or parties thereto, provided that the subject matter of the contract, instrument or controversy, or at least one of the parties thereto, shall have some contact with the jurisdiction so selected.
- (b) In any proceeding under this Code, whenever the contract or other instrument sets forth a choice of law provision, the Tribal Court shall apply the procedural rules of the Tribal Court and the substantive law of the jurisdiction selected in such choice-of-law provision; provided that no procedural rule of the Tribal Court shall bar, unreasonably delay or impair any action, proceeding or remedy where such action, proceeding or remedy would not be barred, unreasonably delayed or impaired by the procedural rules of the courts of the jurisdiction whose substantive law applies.
- (c) In any proceeding in the Tribal Court relating to a contract or other instrument described in § 402(a) of this Code, whenever the contract or other instrument does not set forth a choice of law provision, the Tribal Court shall apply the substantive law of the Band, including any applicable choice-of-law principles.

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

§ 405 - Stay of Proceedings in Tribal Court and Order to Proceed with Arbitration

- (a) If any action for legal or equitable relief or other proceeding is brought in the Tribal Court by any party to any contract or instrument described in § 402(a) of this Code, the Tribal Court shall not review the merits of the pending action or proceeding, but shall stay the action or proceeding until an arbitration has been had in compliance with the agreement.
- (b) A party to any contract or other instrument described in § 402(a) of this Code claiming the neglect or refusal of another party thereto to proceed with an arbitration thereunder may make application to the Tribal Court for an order directing the parties to proceed with the arbitration in compliance with their agreement. In such event, the Tribal Court shall order the parties to arbitration in accordance with the provisions of the contract or other instrument and the question of whether an obligation to arbitrate the dispute at issue exists shall be decided by the arbitrator(s).

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

§ 406 - Advice of the Court on Tribal, State or Federal Law

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

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

§ 407 - Time Within Which Award Shall be Rendered; Notice to the Parties

- (a) If the time within which an award is rendered has not been fixed in the arbitration agreement, the arbitrator(s) shall render the award within thirty (30) days from the date the arbitration has been completed. The parties may, by written agreement, agree to extend the time in which the award may be made.
- (b) An arbitration award shall be in writing and signed by the arbitrator(s). The arbitrator(s) shall provide written notice of the award to each party by certified or registered mail, return receipt requested.

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

§ 408 - Application for Order Confirming Award; Record to be Filed with Clerk of Court; Effect and Enforcement of Judgment

- (a) At any time within one (1) year after an arbitration award has been rendered and the parties thereto notified thereof, any party to the arbitration may make application to the Tribal Court for an order confirming the award.
- (b) Any party applying to the Tribal Court for an order confirming an arbitration award shall, at the time the award is filed with the Clerk of the Tribal Court for entry of judgment thereon, file true and correct copies of the following papers with the Clerk: (1) the agreement to arbitrate; (2) if applicable, the Tribal Council resolution approving application of this Code; (3) written identification of the arbitrator(s) and any material documenting the selection or appointment of the arbitrator(s); (4) any written agreement requiring the reference of any question as provided in § 406; (5) each written extension of the time, if any, within which to make the award; (6) the award; and (7) evidence that all parties to the arbitration have received notice of the filing or the intent to file an application to the Tribal Court for confirmation of the arbitration award.
- (c) An arbitration award shall not be subject to review or modification by the Tribal Court, but shall be confirmed strictly as provided by the arbitrator; provided, that the Tribal Court may nevertheless decline to enforce any arbitration award if it finds that any of the following occurred:
 - (1) The award was procured by corruption, fraud, or undue means;

- (2) There was evident partiality or corruption in the arbitrator(s);
- (3) The arbitrator(s) were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or
- (4) The arbitrator(s) exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

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

- (d) In any of the following cases where the Tribal Court is authorized to make an order regarding arbitration, the Tribal Court may make an order modifying or correcting the arbitration award upon the application of any party to the arbitration:
 - (1) Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award;
 - (2) Where the arbitrator(s) have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted; or
 - (3) Where the arbitration award is imperfect in matter of form not affecting the merits of the controversy.

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

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

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

§ 409 - Arbitration Award Not Appealable

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

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

§ 410 - Jurisdiction of the Tribal Court

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

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

§ 411 - Police Powers and Judgment Enforcement Remedies

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

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

§ 412 - Severability

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

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

§ 413 - No Waiver of Sovereign Immunity

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

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

Chapter 5 - Grand Traverse Band Police Department**§ 501 - Purpose and Creation of GTB Police Department**

The purpose of this Code is to establish the GTB Police Department and to delineate the management structure of the GTB Police Department and the allocation of human resources

responsibilities and the administration of justice for purposes of maintaining the peace within the Indian Country jurisdiction of the GTB.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 502 - Definitions

- (a) “Captain” shall mean the commanding officer of the GTB Police.
- (b) “Acting Captain” shall mean the acting commanding officer of the GTB Police.
- (c) “Officer” shall mean any member of the GTB police executing the constitutional oath of office.
- (d) “Members,” “members of the department,” or “members of said department” shall mean any employee of the GTB Police Department whether an officer or a civilian employee.
- (e) “Tribal Manager” shall mean the person identified by Article XII Section 2 (a) (“controlled by the Tribal Council directly or indirectly through a Tribal Manager”).
- (f) “Department” shall mean the GTB Police.
- (g) “Tribal Government” is the Grand Traverse Band of Ottawa and Chippewa Indians. For purposes of this Code, Tribal Government does not include the Economic Development Corporation, any entity owned by the Economic Development Corporation, or any other entity chartered by the Tribal Council.
- (h) “Department Manager” shall mean the person designated by the Tribal Council as the programmatic manager of the Public Safety Department of the GTB.
- (i) “Dismissal” means:
 - (1) a termination, including that resulting from the elimination of a position, of an employee by an employer;
 - (2) a layoff or suspension of an employee by an employer for more than two (2) consecutive months; or
 - (3) a quitting of employment or a retirement by an employee induced by an act or omission of the employer, after notice to the employer of the act or omission without appropriate relief by the employer, so intolerable that under the circumstances a reasonable individual would quit or retire.
- (j) “Tribal Court” means the Grand Traverse Band Tribal Court.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 503 - GTB Police, Creation of Department, Membership; Authority and Chain of Command

- (a) There is hereby created a department of the Tribal government which shall be known and designated as the GTB Police Department within the GTB Department of Public Safety. The Captain of the GTB Police Department shall be in charge of the GTB Police Department as its executive head, and he or she shall have complete and direct supervisory control over all constitutional commissioned officers and civilian police personnel of the GTB Police Department. The Captain shall be appointed by the Tribal Council, with the advice and recommendation of the Tribal Manager, and shall hold office during competent administration.
- (b) The Department Manager of the Department of Public Safety shall be in charge of the program management functions of the GTB Police Department and have co-supervisory authority, in conjunction with the Police Captain, over the employees of the GTB Police Department.
- (c) The Captain of the GTB Police Department and the Department Manager of the Department of Public Safety for administrative purposes shall report to the Tribal Manager.
- (d) Nothing in this section shall impair the independent law enforcement duties of the Captain to pursue law enforcement actions consistent with Tribal or Federal law.
- (e) The Captain may appoint or designate two (2) officers among the seven (7) highest ranking commissioned officers of the department to serve in order of precedence, as named, as acting Captain in his or her absence from the office, during his or her illness or during his or her disability for any reason to perform his or her duties, provided, however, that any such officer so acting shall receive no additional compensation by virtue of the interim appointment. An officer appointed as acting captain may be relieved of such appointment at the will of the Captain.
- (f) The grades and duties of the officers of the GTB Police Department shall be captain, sergeant, corporal, policeman and policewoman. The officers shall be authorized to carry arms either openly or concealed. Every member of the GTB Police Department shall be subject to orders at any time, the officers shall at all times have the authority to apprehend criminal and preserve law and order.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 504 - Divisions; Officers; Termination of Officers; Hearing; Civilian Employees

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

- (b) All persons appointed as officers shall be at the time of their appointments not less than 21 years of age and not more than a maximum age limit to be determined by the Captain in his or her discretion.
- (c) All persons appointed as officers shall execute the constitutional oath of office before entering upon their duties.
- (d) No officer shall be dismissed, except when insufficient funds require a reduction in expenditures in which case the officer or officers shall be dismissed consistent with 1) Indian preferences and then 2) term of service with the Tribe and those officers junior in time shall be dismissed.
- (e) Termination for cause shall only be permitted upon a hearing as hereafter provided in §§ 507 and 508 of this chapter.
- (f) Civilian employees may be terminated consistent with the GTB administrative dismissal process as established by the Tribal Council in the GTB Personnel Policy.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 505 - Captain and Officers; Powers and Duties

- (a) The Captain and each officer of the GTB Police Department are vested with the powers of a conservator of the peace. They may also apply to any judicial officer of the Tribe for the issuance of search warrants, warrants of arrest or any other criminal process, or orders necessary when the institution of criminal proceedings for the discovery or punishment of crime of any degree is ordered in writing by the GTB Prosecutor consistent with 3 GTBC Chapter 1.
- (b) The Captain and each officer of the GTB Police Department have all the immunities and matters of defense available to conservators of the peace or commissioned tribal and federal officers, or both, in any action brought against them by virtue of acts done in the course of their employment.
- (c) Any member of the GTB Police Department may serve and execute all criminal and civil process, when directed to do so by the Tribal Manager or the GTB Prosecutor, in actions and matters in which the Tribe is a party. The Captain and the GTB Police Department are under the immediate control and direction of the Tribal Manager in matters not directly related to law enforcement.
- (d) The GTB Prosecutor may direct that the GTB Police officers conduct a specific investigation or matter in any matter the GTB Prosecutor is charged with the responsibility thereof under 3 GTBC Chapter 1.
- (e) The Captain may, upon the order of the Tribal Manager, or extemporaneously under exigent circumstances, call upon any sheriff or other police officer of any unit of state or federal government, within the limits of their respective jurisdictions as contained in an independent cross-deputization intergovernmental agreement or memoranda of the Tribe

and the unit of State government or any superintendent federal law governing the relationship between federal law enforcement agencies and the Tribal law enforcement agency, for aid and assistance in the performance of any duty imposed by this Code and Tribal jurisdiction under Indian Country jurisdictional standards of 18 U.S.C. § 1151.

- (f) The Captain shall formulate and put into effect plans and means of cooperating with the local police and peace officers throughout the Indian Country jurisdiction, 18 U.S.C. § 1151, of the Tribe for the purpose of the prevention and discovery of crimes and the apprehension of criminal.
- (g) The Captain is hereby authorized, with the approval of the Tribal Manager and only upon specific motion of the Tribal Council, to appoint GTB conservation officer as special GTB police officer, who shall be vested with the powers of an officer of the GTB Police, and who shall in his or her capacity as special GTB police officer be under the direction of the Captain.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 506 - Duties of the Department Manager of the Public Safety Department in Relation to the Captain of the GTB Police Department and the Tribal Manager

- (a) The Department Manager of the Department of Public Safety shall have the principal administrative duty of developing all policy and procedures manuals consistent with applicable federal, state and tribal law.
- (b) Setting performance standards for the GTB Police certification and evaluation standards for GTB Police civilian personnel.
- (c) Preparation of the GTB Police annual and capital budgets for submission to the GTB Office of Management and Budget consistent with budget cycle as defined in applicable federal and tribal appropriation law.
- (d) Administration of the GTB Police Budgets and the filing of financial reports with the appropriate federal, state and tribal appropriation agency.
- (e) The Department Manager of the Department of Public Safety is under the direct supervision of the Tribal Manager.
- (f) Nothing in this section shall impair or limit the independent duty of the Captain to make independent law enforcement decisions consistent with federal and tribal law.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 507 - Rules and Regulations

- (a) The Captain shall make and adopt rules and regulations for the direction, control, discipline and conduct of the members of the GTB Police Department, for promotion on the basis of Indian Preference and seniority of service, of the officers of the Department.
- (b) The Captain shall develop regulations for the filing and hearing of charges against such officers and the Captain may make any other rules and regulation for the governing and operation of the GTB Police Department as shall appear to him reasonably necessary to carry out the purposes of this Code.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 508 - Hearings

- (a) A trial board to hear charges against officers of the GTB Police Department consisting of the Captain and two (2) officers from among the commissioned officers of the department, senior in service, shall be appointed by the Captain. The Captain shall be the presiding officer hereof and make all necessary rulings during the course of any hearing. He shall also make rules and regulations for the filing of verified written charges against an accused officer, for a hearing upon the written charges in not less than ten (10) days notice and for an opportunity for the charged officer to produce proof of a defense.
- (b) The Captain or the officer acting in the Captain's stead as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence in support of charges, and shall issue subpoenas for witnesses for the defense and shall on his or her own motion if he or she have knowledge or is independently informed of other persons having knowledge of the matters charged compel their attendance at the hearing by subpoena.
- (c) Persons summoned as witnesses before the trial board shall be entitled to witness fees and mileage for traveling, as provided by GTB Court Rules for witnesses. Failure or refusal to obey any such subpoena shall be brought to the attention of the Tribal Court and shall be punished by the Tribal Court as contempt.
- (d) Upon written order of the Captain, any officer appointed or designated to act in the absence as acting captain may sit in his or her place and stead as presiding officer of the trial board.
- (e) If the trial board finds the charges credible based upon an evidentiary standard of clear and convincing then the trial board shall make a finding of guilty and recommend either removal of the officer or such disciplinary punishment as prescribed by the rules and regulations which, in their opinion, the offense merits; thereupon the Captain shall direct such removal or punishment. If any officer refuses to abide by any such disciplinary order, the Captain may be ordered to remove him or her forthwith. Nothing herein contained shall require a hearing before said board before disciplinary measures may be taken by the Captain or any commanding officer for the punishment of minor infractions of the rules and regulations of the department.

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

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 509 - Incumbents to Continue in Office; Construction of the Chapter

- (a) Until the Tribal Council may appoint a Captain incident to a resignation or for cause termination as herein provided, the present Captain of the GTB Police Department and the present Department Manager of the Department of Public Safety shall continue in office as such Captain and Department Manager. Nothing herein contained shall be deemed to terminate any commission appointment, or employment existing under the present process for the administration of the GTB Police Department.
- (b) All matters and orders pending before or made by any officer or department under the Code to the GTB Police Department shall be deemed to be continued with like status for the GTB Police Department. All existing appropriations for the support and maintenance of the GTB Police Department for the performance of any duties are hereby maintained and transferred to this administrative structure contained in this chapter.

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 510 - Disposition of Fees

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

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

§ 511 - Reports of the Captain

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

History: Adopted by Tribal Act #05-23.1507, enacted by Tribal Council on June 15, 2005.

Chapter 6 - Grand Traverse Band Citizen Complaint Policy¹

§ 601 - Purpose

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

History: Adopted by Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.

§ 602 - Policy

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

History: Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.

§ 603 - Procedures

(a) Written complaint/concern

- (1) A Citizen Complaint Form can be obtained from the Police Department Dispatch Officer. The complaint should be filled out completely and returned to Dispatch.
- (2) Upon receiving the complaint, the Captain of Police will review the form and make assignments within the department staff to investigate the complaint if required, in compliance with 3 GTBC § 508.
- (3) The Police Department will send a letter to the complainant confirming receipt of the complaint form within seventy-two (72) hours of receiving the complaint.
- (4) An investigative report will be completed and reviewed by the Captain of Police within fourteen (14) calendar days of receiving the complaint. The complainant will be sent a letter outlining the conclusions of the investigation.
- (5) A monthly report shall be submitted to the Tribal Council outlining each Citizen's Complaint that was filed for that month and its conclusion.

(b) Appeal procedures

- (1) If a GTB citizen is not satisfied or disagrees with the conclusions provided by the Police Department, an appeal can be made to the Tribal Council by submitting a

¹Editor's Note: Former Ch. 6, GTB Police Commission, adopted by Tribal Act #05-23.1507, enacted by Tribal Council on 6-15-2005, was dissolved by Tribal Act #07-25.1784, enacted by Tribal Council on 6-20-2007.

written request to the GTB Legal Department within seven (7) days of the rendering of the Police Department's decision.

- (2) Appeals to the Tribal Council will be in writing with all points of contention outlined. Any proofs or supporting documentation must be submitted to the Council along with the appeal.
- (3) The Tribal Council will review all appeals and render a decision, or hold a hearing at the next regularly scheduled Tribal Council Session.
- (4) The hearing will be closed to the public. All people that are sources of information will be required to provide testimony before the Council.
- (5) The Council will draw conclusions from the hearing and render a decision as to whether the original complaint was meritorious or non-meritorious.
- (6) In the event the Council deems the original complaint to be meritorious, the Council shall recommend an appropriate action to the Captain of Police.
- (7) In the event the Council deems the original complaint to be non-meritorious, the matter shall be dismissed. The Tribal Council's decision is final.
- (8) The Council will provide a decision on all hearings within a reasonable amount of time.

History: Tribal Act #07-25.1784, enacted by Tribal Council on June 20, 2007.

Chapter 7 - Contempt of Tribal Court Ordinance²

§ 701 - Contempt of Tribal Court; Civil

- (a) **Definition of Contempt.** Willful misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any civil proceeding by the Tribal Court, or which obstructs or interferes with the administration of justice by the Tribal Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court shall constitute contempt of Tribal Court. The willful failure of a party to comply with the terms of a civil judgment directed against her/him, with which she/he is able to comply, shall be held in civil contempt of the Tribal Court, which shall be punished by the Tribal Court in the manner prescribed by this Ordinance.
- (b) **Contempt in Presence of Court.** When civil contempt of Tribal Court is committed in the presence of a Tribal Judge it may be punished summarily by that Tribal Judge. In such case an order shall then be made reciting the facts constituting the civil contempt,

²Editor's Note: This ordinance was originally designated as Chapter 4 of Title 3 of the GTBC, but was reassigned as Chapter 7 due to the interim additions of Chapters 4, 5 and 6 to Title 3.

adjudging the person guilty of civil contempt, and prescribing the punishment for such civil contempt in accord with Chapter 7, § 701(d) of this Ordinance.

- (c) Contempt Outside Presence of Court. When it appears upon a verified statement filed with the Tribal Court reciting with particularity the alleged acts and/or omissions constituting civil contempt to the Tribal Court, which contempt may have been committed out of the presence of the Tribal Court, the Tribal Court may issue a summons to the person so charged directing her/him to appear at a time and place designated for a hearing on the matter. If such person served with the summons fails to appear at the time and place so designated, the Tribal Court shall conduct a hearing, and if it finds her/him guilty of civil contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person subject to civil contempt, and prescribing the fine for such civil contempt in accord with Chapter 7, § 701.
- (d) Punishment for Contempt. A Tribal Judge may punish for civil contempt by fine or imprisonment, or both; such civil fine not to exceed two hundred dollars (\$200.) or imprisonment, based upon extraordinary circumstances as defined by the federal law of civil contempt, not to exceed two (2) days, plus Tribal Court costs.

History: Adopted by Tribal Act #06-24.1628, enacted by Tribal Council on February 22, 2006.

§ 702 - Contempt of Tribal Court; Criminal

- (a) Definition of Contempt. A Tribal Judge may punish for criminal contempt persons guilty of the following acts:
 - (1) Disorderly, contemptuous, or insolent behavior toward the Tribal Judge while holding Court, tending to interrupt the due course of the Tribal Court proceeding.
 - (2) A breach of the peace, boisterous conduct, or violent disturbance in the presence of the Tribal Judge, or in the immediate vicinity of the Tribal Court held by her/him tending to interrupt the due course of a trial or other judicial proceeding.
 - (3) Disobedience to a subpoena, duly served, or refusing to be sworn or to answer as a witness.
 - (4) Disobedience or resistance to the carrying out lawful order or process made or issued by the Tribal Judge.
 - (5) Interfering with any person or property in the custody of an enforcement officer acting under an order of the Tribal Court or process of the Tribal Court.
 - (6) Executing a complaint as a complaining witness and failing to appear or testify in support thereof.
- (b) Contempt Committed in Presence of Judge. When criminal contempt is committed in the immediate view and the presence of the Tribal Judge, it may be punished summarily. The Tribal Judge must make an order reciting the facts as they occurred, and that the person

proceeded against is guilty of criminal contempt, and that she/he be punished as therein prescribed.

- (c) Contempt Committed Not in Presence of Judge. When criminal contempt is not committed in the immediate view and presence of the Tribal Judge and upon a verified statement filed with the Tribal Court reciting with particularity the alleged acts and/or omissions constituting criminal contempt, a Warrant of Arrest may be issued by such Tribal Judge and the person may be arrested and brought before the Tribal Judge immediately. The Tribal Judge must give the arrested person an opportunity to answer the verified complaint. The Tribal Judge may then discharge her/him or may convict her/him of criminal contempt.
- (d) Punishment. A Tribal Judge may punish for criminal contempt by fine or imprisonment, or both; such fine not to exceed two hundred dollars (\$200.) or imprisonment not to exceed fourteen (14) days plus Tribal Court costs.

History: Adopted by Tribal Act #06-24.1628, enacted by Tribal Council on February 22, 2006.