

Section 5.06 Use of Buildings at GTB Marinas and other Tribal Lands

(A) All GTB-licensed fishers or other authorized persons utilizing any buildings located upon the Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island or other tribal lands must adhere to the following regulations:

- (1) Only tribal members with valid GTB commercial fishing licenses and/or subsistence fishing licenses (GTB "fisher") may use buildings designated for Treaty-fishing related activities located upon GTB's marina properties or other tribal lands. If subsequently approved by the Natural Resources & Environmental Committee and Tribal Council, any separate written use requirements for each of the buildings located upon GTB's marina properties (Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island) or other tribal lands shall be enforced as part of these regulations.
- (2) Entry and/or use of the buildings is prohibited unless the fisher first has been authorized to use specified building(s) by person(s) within the Natural Resources Department ("NRD") delegated to grant such authority. Such authority may not be delegated to a licensed commercial fisher.
- (3) As a condition of being granted authorization to use specified building(s), the fisher must sign an authorization agreement acknowledging that GTB Conservation Officers and Law Enforcement Officers have unilateral authority to suspend a fisher's authorization to use specified building(s). [Suspension of authorization shall include mandatory relinquishment/return of key(s) to building(s) and/or deletion of electronic code access.]
- (4) A fisher must be served with notice of suspension of authorization to use specified building(s). Such notice shall inform the fisher that authorization to use specified building(s) has been suspended and shall be accompanied by a written statement explaining the reasons why such authorization was suspended. Such notice and corresponding suspension shall automatically apply to any other person(s) assisting in the fisher's business who may have been authorized to assist the fisher.

(5) A fisher's authorization to use specified building(s) may include other person(s) assisting in the fisher's business, if such other person(s) also have been identified to the NRD and granted authorization to use specified building(s). Any such other person(s) assisting in the fisher's business also must sign an authorization agreement acknowledging that GTB Conservation Officers and Law Enforcement Officers have unilateral authority to suspend authorization to use specified building(s).

(6) In the event that a fisher's authorization to use specified building(s) is suspended, the fisher is entitled to prompt administrative and legal review pursuant to the procedures set forth in section C of these regulations.

(B) A fisher's authorization to use specified building(s) located upon the Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island or other tribal lands is subject to the following use restrictions:

(1) Use of the buildings designated for Treaty-fishing related activities is limited to processing fish caught and reported to the NRD by a GTB commercial and/or subsistence fisher authorized to use specified building(s) and/or to other fishing-related activity approved by the NRD.

(2) Because the buildings designated for Treaty-fishing related activities are utilized for fish processing and are subject to inspection and licensing for protection of public health, it is imperative that fishers maintain the premises consistent with any written requirements for each building approved by Tribal Council pursuant to section A(1) of these regulations. These regulations and any separate written use requirements for each building will be provided to fishers prior to being granted authorization, and violation of such requirements shall justify unilateral suspension of the fisher's authorization to use specified building(s), which may be appealed according to the administrative and legal review procedures set forth in section C of these regulations.

(C) The following process is available to any fisher whose authorization to use specified building(s) has been suspended:

- (1) An administrative review is a prerequisite to judicial review. Within ten (10) calendar days from the date of suspension, the fisher may submit an appeal in writing to the Department Manager's office, together with any evidence in support of the fisher's appeal; copies of any such appeal and evidence must be provided to the NRD; within five (5) business days after an appeal is submitted, the NRD may submit rebuttal statement/evidence to the Department Manager's office; copies of any such rebuttal/evidence must be provided to the fisher. Within ten (10) business days after submission of the fisher's appeal, the Department Manager shall issue a ruling in writing. The Department Manager shall have the discretion to overturn or uphold the suspension, and/or to impose conditions upon continued probationary use of the fisher's authorization to use specified building(s).

 - (2) Judicial review in the Tribal Court is available for an appeal of the Department Manager's determination. Any such review is limited to the administrative record that shall be provided to the Tribal Court by the Department Manager's office within thirty (30) calendar days from the date that the Department Manager's office is served with notice of the Tribal Court proceeding. An abuse of discretion standard shall be applied by the Tribal Court similar to the application of that standard by federal courts in federal Administrative Procedure Act cases.

 - (3) If the then existing administrative structure of the NRD does not include a Department Manager, then the Tribal Manager shall conduct the administrative review.
- (D) Fishers including those authorized to use buildings shall not make any alterations to the buildings or undertake any construction activities to the buildings or on the marina properties without prior written permission of the NRD.
- (E) A fisher is responsible for any damages resulting from use of buildings designated for Treaty-fishing related activities by the fisher and/or other person(s) assisting in the fisher's business, or resulting from unauthorized alterations or construction activities; and failure of the fisher to reimburse the Tribe promptly for any damages shall justify unilateral suspension of the fisher's commercial and/or helper's fishing license(s) by the NRD.

(F) Violations of these regulations and of any separate written use requirements for each of the buildings located upon GTB's marina properties (Arthur Duhamel marina in Peshawbestown and Beaver's Landing marina on Beaver Island) or other tribal lands shall justify unilateral suspension of the fisher's authorization to use specified building(s), subject to the appeal process specified in section C.