

§ 201. Findings; Purpose

- (a) The Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians finds that control and regulation of gaming activity is necessary to promote tribal economic development, self-sufficiency, and sovereignty; to protect the operation of gaming enterprises from organized crime and corrupting influences; and to ensure that gaming is conducted fairly and honestly by both operators and players. The Tribal Council finds that this duty is best conducted by a subordinate governmental organization permitted to exercise certain delegated executive and legislative powers.
- (b) The purpose of this ordinance is to establish the Gaming Commission with certain delegated authorities, powers, and duties.

§ 202. Establishment; Immunity

- (a) The Grand Traverse Band Gaming Commission is established as a subordinate governmental organization pursuant to Article IV, Section 1(m) of the Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (b) As a subordinate governmental organization, the Gaming Commission enjoys the same attributes of sovereignty as the Grand Traverse Band, including, but not limited to, sovereign immunity from suit and liability in any jurisdiction, court, or venue.

§ 203. Residency; Place of Business

- (a) The Gaming Commission is a resident of, and will maintain its principal place of business on, the Reservation of the Grand Traverse Band in Peshawbestown, Michigan.
- (b) The Gaming Commission may conduct business under this ordinance at any location it deems to be in the best interests of the Band.

§ 204. Assets; Credit

- (a) Assets
 - (1) The Gaming Commission will have only those assets specifically assigned to it by the Tribal Council, or acquired in its name by the Tribal Council, or may acquire necessary assets on its own behalf.
 - (2) The property of the Gaming Commission is public property to be used for essential public and governmental purposes. The Gaming Commission and its property are exempt from all taxes and special assessments levied by the Tribal Council.
 - (3) Upon dissolution of the Gaming Commission, the title to any and all property then owned by it shall vest in and become property of the Band.

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- (4) No activity of the Gaming Commission nor any indebtedness incurred by it shall implicate or in any way involve or affect the assets of the Band's members or the Band unless the assets were assigned in writing by Tribal Council resolution to the Gaming Commission.
- (b) Nothing in this Gaming Code, nor in any activity of the Gaming Commission, in anyway involves or implicates the credit of the Band or the Gaming Commission.

§ 205. Membership; Non-Voting Membership; Vacancies

- (a) The Gaming Commission is comprised of at least two, but no more than four, members appointed by the Tribal Council and one member elected by the membership of the Band. Commissioners will serve staggered terms of four years. There is no prohibition on successive terms of service.
- (b) The Tribal Council may designate any person, including any member of the Tribal Council, to participate without vote on the Gaming Commission.
- (c) If any commissioner dies, resigns, is removed or for any reason is otherwise unable or unwilling to serve as a commissioner, the Tribal Council must declare his or her position vacant and must appoint another person to fill the position for the remainder of the term. If the vacant position is the elected position, the Election Board must hold a Special Election to fill the remainder of the term consistent with its rules. If the Election Board does not hold a Special Election within a reasonable amount of time, Tribal Council must fill the vacancy by appointment for the remainder of the term.

§ 206. Qualifications for Membership; Length of Service

- (a) To be elected or appointed to the Gaming Commission, an individual must be an enrolled member of the Grand Traverse Band and at least eighteen years of age.
- (b) The Regulatory Department must conduct a comprehensive background investigation and credit check of each candidate or potential appointee. For each candidate or appointee, the Election Board or the Tribal Council, respectively, will determine whether the investigation reveals that the person's prior activities, criminal record (if any), or reputations, habits, or associations pose a threat to the public interest, or threaten the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair or illegal practices, methods, or activities in the conduct of gaming.
- (c) A person must pass an independently administered alcohol and drug test substantially similar to the pre-employment test given to prospective tribal employees prior to being considered as an appointee or to be qualified as a candidate. Failure or refusal to submit to the test, or the presence of alcohol or illegal drugs at the time of testing, will disqualify the person from appointment or candidacy.

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- (d) A person is not eligible for election, appointment, or continued service on the Gaming Commission if:
- (1) The person is simultaneously a Tribal Council Member, although this provision does not prevent non-voting participation under Section 205(b) of this ordinance;
 - (2) The person was convicted of, or entered a plea of guilty or no-contest to, a felony, a gaming offense, or any misdemeanor which involved an element of dishonesty or moral turpitude;
 - (3) The person or any member of the person's immediate family has a financial interest in any gaming activity or facility, other than the receipt of a per capita benefit, or an immediate family member's employment in a gaming operation.
 - (4) The person is employed by any gaming operation.

§ 207. Removal

- (a) The Tribal Council may suspend or remove a commissioner for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for conduct which threatens the honesty and integrity of the Gaming Commission or gaming activity, or is found to be disqualified under Section 206(d) of this ordinance, or otherwise violates the letter or intent of this Title 18.
- (b) The Tribal Council may temporarily remove a commissioner to protect essential interests of the Band from immediate harm by delivering written notification of temporary removal. The notice must state the basis for the temporary removal action and contain a date for the hearing required in this Section 207. Temporary removal is effective immediately and prohibits the commissioner's further participation in any Gaming Commission business. Tribal Council must convene a hearing within ten days of the written notice to consider whether to remove or reinstate the commissioner, and the hearing must be conducted according to Section 207(d) below.
- (c) The Tribal Council may otherwise remove a commissioner by delivering written notice to a commissioner that it will consider the commissioner's removal from the Gaming Commission. The written notice must state the basis for the removal action and contain a date for the hearing required by this Section 207(c).
- (d) The Tribal Council may conduct a removal hearing at any regular or special Tribal Council session, or by a special or emergency session called for that purpose. The commissioner subject to removal must appear in person at the hearing or meeting, and may present witnesses. A commissioner subject to removal has a right to counsel present at the hearing or meeting. If the Tribal Council finds that the commissioner has engaged in behavior described in Section 207(a), it will remove the commissioner. Failure of a commissioner to appear after receiving notice that he or she is subject to removal will be considered default and is sufficient for a finding under Section 207(a). A written record

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of all removal proceedings, including the charges and findings, must be kept by the Tribal Secretary.

- (e) The decision of the Tribal Council after a hearing to remove a commissioner is final action for purposes of appeal to the Tribal Court, which shall be limited to administrative review.

§208. Meetings; Honorariums; Quorum; Voting

- (a) The Gaming Commission must hold at least one regular meeting per month on a schedule determined in advance by the Gaming Commission and posted publicly. Regular session agendas must be posted for public notice at least one week prior to the meeting.
- (b) The Tribal Council, the Chair of the Gaming Commission, or any member of the Gaming Commission may call a special session. Special session agendas must be posted as soon as practicable after the meeting is called.
- (c) The commissioners may be paid an honorarium for attendance at all regular meetings conducted pursuant to the 2 GTB 5, Open Access Meetings Act, and for all hearings conducted pursuant to Gaming Commission Regulations Chapter 5. Honorariums shall not be paid for special meetings, trainings, or travel obligations.
- (d) Quorum for the conduct of Gaming Commission business is a majority of the total number of commissioners seated on the Commission by appointment or election.
- (e) The Gaming Commission can only act by motion, resolution, or regulation as determined by a majority vote with a quorum present.
- (f) A Commissioner must recuse himself or herself from all participation and decisions that pose a real or apparent conflict of interest.

§ 209. Delegation of Authority

The Tribal Council delegates to the Gaming Commission sufficient legislative and executive authority to implement this Title 18. The Gaming Commission has the power:

- (a) To issue any gaming license as authorized by this Title 18, and to deny, suspend, or revoke the same;
- (c) To promulgate and publish regulations to control day-to-day gaming activities, and to publish and distribute those regulations and this Title 18, and other applicable laws or regulations it deems necessary;
- (d) To convene hearings and to administer oaths under penalty of perjury, and at hearings or otherwise to examine witnesses or individuals, orally or in writing, and to compel by

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- subpoena the appearance of any person or the production of any books, records, or papers;
- (e) To examine or investigate any gaming facility or any other place, equipment, tangible property, books, records, papers, vouchers, accounts, documents, or financial statements of any gaming operation operating or suspected to be operating within the jurisdiction of the Grand Traverse Band;
 - (f) To request and receive assistance from the Tribal Legal Department for hearings, for defining terms in this Title 18, for advising the Commission, for drafting documents or for any other permissible purpose;
 - (g) To employ advisors as it deems necessary, such as law enforcement specialists, gaming professionals, the Tribal Legal or Accounting Departments, to exercise and carry out its responsibilities;
 - (h) To sue in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Title 18 and other tribal laws, subject to the explicit approval of Tribal Council by written resolution, and the authority to arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to its authorized activities, including the power to bring suit for mandamus, injunctions, or other proceedings necessary to compel obedience to its orders;
 - (i) To purchase, lease, take by gift, devise, bequest or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible and intangible, including money, securities, or interests therein, rights and services of any kind and description or any interest therein, provided that any acquisition of any interest in real property is subject to the explicit approval of the Tribal Council by written resolution, and that title to real property or fixtures or improvements upon real property be taken in the name of the Grand Traverse Band or in the name of the United States for the Grand Traverse Band, and that all title to trust or restricted real property remain in trust or restricted;
 - (j) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property, assets and revenue;
 - (k) To enter into, make, perform, and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state, or local agency, or Indian tribe, or person, partnership, corporation, or other association or entity for any lawful purpose pertaining to its business or which is necessary or incidental to accomplishing the purposes of this Title 18;
 - (l) To adopt and amend fee schedules and to charge fees to members of the public for licensing, investigating, or otherwise conducting its business, provided that no fee will be charged to or required of any tribally-owned or tribally-operated Class II or Class III gaming operation;

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- (m) To require by regulation the filing of any records, forms, or reports, and all other information desired by the Tribal Council for implementation of this Title 18 relating to any gaming activity or operation, or any investigation as required by tribal or the Indian Gaming Regulatory Act;
- (n) To provide for an internal system of recordkeeping with adequate safeguards to preserve confidentiality;
- (o) To conduct background investigations of all individuals or entities who apply for licensing;
- (p) To discipline any applicant or licensee by ordering immediate compliance with this Title 18 or its regulations, and to issue orders of temporary suspension for any issued license;
- (q) To order the temporary closure of any gaming facility within the Band's jurisdiction if it determines that closure is necessary to protect the assets or interests of the Band; and
- (r) To delegate by regulation, motion, or resolution its power and authority to a Regulatory Department for execution, provided that the Gaming Commission shall not delegate its authority to permanently revoke a gaming license.

§ 210. Duties

The Gaming Commission has the duty to monitor and regulate gaming activity within the Band's jurisdiction, and to enforce this Title 18 and its regulations according to tribal law and applicable federal law. The Gaming Commission has duties that include, but are not limited the following:

- (a) To arrange for and attend appropriate training for its members and its staff to maintain competence with applicable federal and tribal law, which must include at least one annual on-site training provided by the NIGC;
- (b) To maintain files of license applications, background investigations, and hearing records for a period of at least ten years, notwithstanding any provision of law that permits a shorter time period;
- (c) To prepare an annual operating budget for all Gaming Commission activities and present it to the Tribal Council by August 15th of each year, with any requests under the GTB Appropriations Act subject to the tribal budgeting process;
- (d) To delegate to the Regulatory Department sufficient authority and duties to perform day-to-day execution of this Title 18 and related regulations including, but not limited to, the conduct of background investigations on each person or entity applying for a gaming license;

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- (e) To receive reports from the Regulatory Department regarding its inspections and /or audits of each licensed gaming facility according to Section 212 of this ordinance.

§ 211. Regulatory Authority

- (a) The Gaming Commission regulations promulgated under Section 214(a) above must include, at a minimum:
 - (1) Internal operating procedures of the Gaming Commission, the Regulatory Department and its staff, provided that the Department and its staff shall also be subject to all applicable tribal policies, including, but not limited to, personnel policies, travel policies, purchasing policies, operating charts and chains-of-command;
 - (2) A regulatory system for all gaming activity, including accounting, contracting, licensing and suspension of licenses;
 - (3) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Gaming Commission authorized by this Title 18.
- (b) No regulation of the Gaming Commission will be of any force or effect unless it is adopted by the Gaming Commissions by written resolution and subsequently published by a resolution of the Tribal Council and both filed for record in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court.
- (c) The Tribal Court and any other court of competent jurisdiction may take judicial notice of all Gaming Commission regulations adopted pursuant to this Code and the Gaming Commission must provide all courts of competent jurisdiction with copies of properly enacted regulations.

§ 212. Right of Entrance; Monthly Inspections

- (a) The Regulatory Department staff may enter the premises of any gaming operation or gaming facility for the purpose of making inspections and examining the accounts, books, papers and documents of the operation of facility during the facility's business hours.
- (b) A Gaming Commission or a member of the Regulatory Department must visit each tribally-owned or tribally-operated gaming facility at least once every two weeks during normal business hours of 8:00 a.m. to 5:00 p.m. for the purpose of monitoring its operation. All visits shall be unannounced. A gaming operator shall facilitate such inspection or examination by giving every reasonable aid to the Gaming Commission and to any properly authorized officer or Regulatory Department staff.

§ 213. Investigations

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- (a) A commissioner who receives information regarding an alleged violation of this Title 18 shall disclose to the Gaming Commission the nature of the alleged violation. The Commission by motion may direct the Regulatory Department to investigate the alleged violation. Subsequent contact regarding the alleged violation must not be received by a commissioner but must be directed to the Regulatory Department for inclusion in its investigation.

- (b) Any commissioner with personal knowledge of an alleged violation must recuse himself or herself from any subsequent hearing regarding the alleged violation.