

Grand Traverse Band of Ottawa and Chippewa



Location:	On the upper portion of the lower peninsula of Michigan
Population:	4102
Date of Constitution:	1988
Key Facts:	One of the first casino tribes

PREAMBLE

We, the members of the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, in order to organize for our common good, to govern ourselves under our own laws, to maintain and foster our tribal culture, to protect our homeland, to conserve and develop our natural resources, and to insure our rights guaranteed by treaty with the federal government, do establish and adopt, as an incident of our sovereign powers, this Constitution for the government, protection, and common welfare of the Grand Traverse Band under the authority of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), as amended.

The Grand Traverse Band of Ottawa and Chippewa Indians is also referred to in this Constitution as the “Grand Traverse Band”, “the Band”, and the “Tribe”.

ARTICLE I: TERRITORY

SECTION 1. Territory. The territory of the Grand Traverse Band of Ottawa and Chippewa Indians shall be the Grand Traverse Reservation, as established by proclamation of the Secretary of the Interior on January 6, 1984, and all lands thereafter acquired by or for the Band.

SECTION 2. Service Area and Jurisdiction Distinguished From Territory.

- (a) Service Area. The Tribe’s primary service area shall be the six-county area consisting of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Manistee Counties of the State of Michigan. However, services may be provided throughout a larger area if permitted by law or program regulations.
- (b) Jurisdiction. The Tribe’s jurisdiction shall be exercised to the fullest extent consistent with this Constitution and the sovereign powers of the Tribe.

SECTION 3. Treaty Rights Not Restricted. Nothing in this Article shall be construed as restricting the treaty rights of the Band or its members.

Article II: MEMBERSHIP

SECTION 1. Membership

(a) Definitions.

- (1) The “November 1, 1985 roll” is defined as a listing of all individuals who were enrolled as members of the Band on November 1, 1985, as well as all those who applied for membership by November 1, 1985, and met the membership requirements then in existence.
- (2) “Michigan Ottawa and Chippewa” is defined as any person listed on the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910.
- (3) “Historic Grand Traverse Bands who are listed on the Durant Roll” means the Bands whose members appear on pages 38 through 46, inclusive, of the notes accompanying the Durant Roll.

(b) Tribal Membership. The membership of the Grand Traverse Band of Ottawa and Chippewa Indians shall consist of the following:

- (1) Base roll membership. Base roll membership, as defined by the following:
 - a. All individuals who were enrolled as members of the Band on November 1, 1985, as well as all those who had applied for membership by November 1, 1985 and met the membership requirements then in existence, AND who were residents as of that date within the six-county area of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Manistee and
 - b. All individuals who were enrolled as members of the Band on November 1, 1985, as well as all those who had applied for membership by November 1, 1985 and met the membership requirements then in existence, AND who were residents as of that date outside of the six-county area of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Mainstee who either:
 - i. Were born in the five-county area of Antrim, Benzie, Grand Traverse, Leelanau, and Manistee, trace to members of the historic Grand Traverse Bands listed on the Durant Roll, and are at least one-fourth (1/4) Michigan Ottawa and/or Chippewa blood, or
 - ii. Are, by blood, the brother, sister or parent of someone on the base roll, as established by b (1)a and b (1)b above, and trace to members of the historic Grand Traverse Bands who are listed on the Durant Roll, or
 - iii. Are of at least one-fourth (1/4) blood of the historic Grand Traverse Bands, or
 - iv. Are descendants of persons enrolled under any Section above; provided that they are of at least one-fourth (1/4) Indian blood, of which at least one-eighth (1/8) must be Michigan Ottawa and/or Chippewa blood.

(2) Future Members.

- a. Descendants. Descendants of members are eligible for enrollment as members if they are of at least one-fourth (1/4) Indian blood, of which at least one-eighth (1/8) must be Michigan Ottawa and/or Chippewa blood.
- b. Additions other than descendants. Individuals other than descendants are eligible for enrollment if either of the following conditions are satisfied:
 - i. They are listed on the November 1, 1985 roll, in the future become residents within the five-county area of Antrim, Benzie, Grand Traverse, Leelanau, and Manistee, and also can demonstrate, by other means, substantial community ties to the Band. Application under this provision must be made within five (5) years of the effective date of adoption of this Constitution.
 - ii. They are not listed on the November 1, 1985 roll, but are among the 297 petitioners listed in the Grand Traverse Band Petition for Federal Acknowledgment, who were then determined to meet the Band's membership criteria, unless they have relinquished their membership in writing. These individuals must also trace to the historic Grand Traverse Bands, must have been born in or be a resident within the five counties of Antrim, Benzie, Grand Traverse, Leelanau, and Manistee, and be at least one-quarter (1/4) Michigan Ottawa and/or Chippewa blood.

(3) Membership by Adoption into the Tribe.

- a. Any person may be adopted into the Grand Traverse Band by a majority vote of the Tribal Council, if that person is at least of one-fourth (1/4) Indian blood and if that person can also demonstrate, by other means, substantial community ties to the Band.
- b. Persons who become members of the Grand Traverse Band of Ottawa and Chippewa Indians through the adoption procedure shall thereupon enjoy and be entitled to all the rights and privileges associated with membership in the Grand Traverse Band.

(4) Membership Rights of Children Who Have Been Adopted

- a. Membership rights of children of Indian descent who are legally adopted by members of the tribe. Any child of Indian descent who is legally adopted by a member of the Tribe shall have membership rights as though he/she were the natural child of the adopting parents.
- b. Membership rights of Indian children who are legally adopted by non-Indian families. Any child eligible for membership who is adopted by a non-Indian family shall be eligible for membership in the Tribe, notwithstanding such adoption.

SECTION 2. Dual Membership Prohibition. No person shall be eligible to be a member of the Grand Traverse Band if that person is enrolled in another federally-recognized Indian Tribe, Band, or Group. Any member of the Grand Traverse Band who applies to be and is accepted

as a member of another federally-recognized Indian Tribe, Band, or Group shall thereby automatically forfeit membership in the Grand Traverse Band and thereby also forfeit all rights and benefits to which Band members are entitled by virtue of their membership.

SECTION 3. Membership Procedure. The Tribal Council shall promulgate ordinances governing enrollment, disenrollment, and adoption; provided that the Tribal Council shall have no power to change or establish substantive requirements for membership in addition to those established in this Article.

SECTION 4. Right of Appeal. Any person whose application for membership has been denied, who has been disenrolled by the Tribal Council, or whose membership has been deemed to be automatically forfeited shall have a right of appeal to the Tribal Judiciary; provided that such appeal rights do not extend to any person whose petition for membership by adoption into the Tribe has been denied.

ARTICLE III: TRIBAL COUNCIL

SECTION 1. Composition.

- (a) The Tribal Council of the Grand Traverse Band shall be composed of seven (7) members of the Band, elected at large by popular vote of the registered voters of the Band.
- (b) The Tribal Council shall be composed of a chairperson and six (6) Tribal Council members.
- (c) The Chairperson and the six Tribal Council members shall be residents of the six-county area of the six-county area of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Manistee of the State of Michigan.
- (d) The executive officers of the Tribal Council shall be a chairperson, vice-chairperson, secretary, and treasurer.
- (e) The Chairperson of the Tribal Council shall be elected by the registered voters of the Band for a term of four (4) years in the manner described in Article VII.
- (f) The executive offices of vice-chairperson, secretary, and treasurer shall be filled, from among the Tribal Council members, by a vote of the Tribal Council for a term of two (2) years. The Tribal Council member receiving the highest vote for each office shall be elected to that office.
- (g) A Tribal Council member shall not hold two or more executive offices simultaneously.

SECTION 2. Term of Office.

- (a) After the initial election described in Section 1(c) of Article VII, each Tribal Council term of office shall be four (4) years.
- (b) Tribal Council members shall continue in office until their successors are elected, their office is deemed vacant, or they are removed from the Tribal Council.
- (c) If any Tribal Council member ceases to be a member of the Band or ceases to maintain residence within the six-county primary service area of the Tribe, he/she shall be removed from the Tribal Council in accordance with Section 2 of Article VIII of this Constitution.

- (d) If any Tribal Council member is convicted of any felony by a court of competent jurisdiction while holding office, the affected Council position shall be deemed vacant in accordance with Section 3 of Article VIII of this Constitution.

SECTION 3. Duties of Tribal Council Executive Officers.

- (a) The Chairperson. The Chairperson of the Tribal Council shall:

- (1) Preside at all meetings of the Tribal Council.
- (2) Represent the Tribal Council in its relations with others, in a manner consistent with this Constitution;
- (3) Appoint members of all committees of the Tribal Council, subject to the approval of the Council and in accordance with the rules and procedures of the Tribal Council;
- (4) Call special meetings of the Tribal Council and of any committee of the Council, in accordance with this Constitution and the rules and procedures of the Tribal Council.
- (5) Receive reports of all committees and deliver such reports or cause such reports to be delivered to the Tribal Council;
- (6) Be an ex officio member of all committees of the Tribal Council;
- (7) Exercise supervision over all committees of the Tribal Council and recommend to the Council the establishment, consolidation, and abolition of any Council committees; and
- (8) Perform such other duties as may be specified by this Constitution, by ordinance, or as required by the Tribal Council.

- (b) The Vice-Chairperson. The Vice Chairperson shall:

- (1) Perform the duties of the Chairperson in the Chairperson's absence;
- (2) Assume responsibility for those functions delegated to him/her by the Chairperson; and
- (3) Perform such other duties as required by the rules and procedures of the Tribal Council.

- (c) The Treasurer. The Treasurer shall:

- (1) Monitor the fiscal matters of the Band;
- (2) Submit financial reports to the Tribal Council at least every six (6) months or at any other time requested to do so by the Tribal Council;
- (3) Perform such other duties as required by the rules and procedures of the Tribal Council; and
- (4) Acquire a surety bond, in an amount and with a surety company satisfactory to the Tribal Council, to administer the Band's fiscal affairs.

- (d) The Secretary. The Secretary shall:

- (1) Submit a report of the minutes of all Tribal Council and tribal membership meetings to the Tribal Council;
- (2) Maintain and protect the Tribal Seal; and
- (3) Perform such other duties as required by the rules and procedures of the Tribal Council.

SECTION 4. Records of the Band.

- (a) The Tribal Council shall provide access for review, to the extent that such review is not prohibited by this Constitution or by federal law, to any tribal member or his/her authorized representative of the records of the Band; provided that such review shall be conducted during normal office hours and in accordance with the rules and procedures established by the Tribal Council.
- (b) All Band records are the exclusive property of the Grand Traverse Band and shall be transferred by Tribal Council members leaving office to their successors in office.

SECTION 5. Meetings of the Tribal Council.

- (a) Regular Meetings. The Tribal Council shall meet in official session at least once every three (3) months at such time and place as shall be established by resolution; provided that the Tribal Council may meet more often as circumstances require. The order of business for any such meeting shall be posted at least seven (7) days in advance; however, other business may also be transacted at such meeting, if the Tribal Council votes to consider such other business.
- (b) Special Meetings. Special meetings of the Tribal Council:
 - (1) May be called by the Chairperson of the Council in his/her discretion,
 - (2) Shall be called by the Chairperson upon the written request of any two (2) Council members, or
 - (3) Shall be called upon the petition of ten percent (10%) of the registered tribal voters; provided that at least seventy-two (72) hours written notice of such meeting shall be given to each Tribal Council member by personal service or by certified mail, return receipt requested, sent to the Council member's usual place of residence.
- (c) Emergency Meetings. Emergency meetings of the Tribal Council may be called by the Chairperson upon less than seventy-two (72) hours written notice, if such meetings are necessary for the preservation or protection of the health, welfare, peace, safety, or property of the Band. Efforts shall be made to give maximum practical notice to each Tribal Council member. Such notice shall state the purpose, time, and place of such meetings. No business other than that stated in the notice shall be transacted at such meetings.
- (d) Open Meetings; Closed Sessions.
 - (1) All meetings of the Tribal Council called pursuant to this Article shall be open to tribal members and tribal members shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe; provided, however, that the Council may meet in closed session, pursuant to its rules and regulations, for the following purposes:
 - a. Personnel matters or
 - b. Legal matters.
 - (2) The Tribal Council may, in its discretion, determine not to keep a record of all or any of the discussion in closed session; provided that the general reason for such determination shall be recorded and a record shall be kept of any action taken in closed session. Such record may be withheld

from inspection by tribal members pending final disposition of the matter concerned.

- (e) Action by the Tribal Council.
 - (1) The Tribal Council shall act only by ordinance, resolution, or motion.
 - (2) Tribal Council action shall be determined by a majority vote of Tribal Council members who vote, notwithstanding abstentions.
 - (3) The Chairperson shall only vote to break a tie vote of the Tribal Council.

SECTION 6. Quorum for Tribal Council Meetings

- (a) A quorum of the Tribal Council shall consist of five (5) members.
- (b) The Chairperson shall be counted in determining a quorum.
- (c) If a quorum is present at the beginning of a meeting, business may be conducted even though member(s) absent himself/herself and less than a quorum is present; provided that at least four (4) Tribal Council members remain to conduct Tribal Council business.

SECTION 7. Tribal Membership Meetings. The Tribal Council shall hold an annual meeting of Band members for the purposes of informing the membership of the status of the affairs of the Band and transacting such other business as may be deemed desirable by the Tribal Council.

ARTICLE IV: POWERS OF THE TRIBAL COUNCIL

SECTION 1. Powers of the Tribal Council. The Tribal Council of the Grand Traverse Band shall be vested with all of the sovereign governmental executive and legislative powers of the Tribe not inconsistent with any provision(s) of this Constitution or federal law. Such powers shall include, but not be limited to, the following:

- (a) To promote and protect the health, education, and general welfare of the Band and its members;
- (b) To safeguard and promote the peace and safety of the Band and its members;
- (c) To make all laws, not inconsistent with this Constitution, which shall be necessary and proper to carry out the sovereign powers of the Tribe, and to implement and enforce the same;
- (d) To purchase, lease, take by gift, take by devise or bequest, or otherwise acquire land, interests in land, or other assets which the Tribal Council may deem beneficial to the Grand Traverse Band;
- (e) To prevent the sale, disposition, lease or encumbrance of Grand Traverse Band land, interests in land, or other assets of the Grand Traverse Band;
- (f) To provide for the maintenance of law and order and administration of justice;
- (g) To provide for, by ordinance not inconsistent with this Constitution, the Tribe's inherent right to exclude from tribal lands person(s) or other parties whom the Tribal Council determines to be persona non grata;
- (h) To manage and control the economic affairs, enterprises, property, and all other interests of the Band;
- (i) To levy and collect taxes, license fees, or assessments upon persons, entities, property, or activities subject to the jurisdiction of the Band where not prohibited by federal law.

- (j) To administer any funds within the control of the Band and to make expenditures from tribal funds for tribal purposes;
- (k) To employ legal counsel, the choice of counsel and fixing of the fees to be subject to the approval of the Secretary of the Interior so long as such approval is required by federal law;
- (l) To provide, by ordinance, for jurisdiction over Indian child welfare matters where the authority for such jurisdiction exists;
- (m) To charter subordinate organizations and to delegate to such organizations or to any subordinate boards or officials of the organization the power to manage the economic affairs and enterprises of the Grand Traverse Band, reserving the right to review any action taken by virtue of such delegated power;
- (n) To negotiate and enter into contracts with the federal, state, and local governments and others on behalf of the Band; and;
- (o) To confer with the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Band prior to the submission of such estimate or projects to the Office of Management and Budget and to Congress.

SECTION 2. Future Delegations of Power. The Tribal Council may exercise such additional powers as may be conferred upon the Band in the future by law, by the Secretary of the Interior, or by any other duly authorized official or agency of the federal government, state government, or by another Indian Tribe.

Section 3. Tribal Powers and Rights Not Diminished. Any rights and powers heretofore vested in the Band but not expressly referred to in this Constitution shall not be diminished, abridged, or divested by this Article.

ARTICLE V: JUDICIARY

SECTION 1. Judicial Power Vested. The judicial power of the Grand Traverse Band shall be vested in a tribal court system. The tribal court system shall be composed of a court of general jurisdiction (hereinafter referred to as the "Tribal Court"), an appellate court (hereinafter referred to as the "Tribal Appellate Court"), and such lower courts as the Tribal Appellate Court may establish.

SECTION 2. Jurisdiction. The judicial power shall extend to all cases arising under this Constitution, ordinances, regulations, and/or judicial decisions of the Grand Traverse Band and shall be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Tribe.

SECTION 3. Composition of the Tribal Court System.

- (a) Tribal Court. The Tribal Court shall be a court of general jurisdiction and shall consist of one (1) judge and one (1) associate judge who shall meet as often as circumstances require.
- (b) Tribal Appellate Court. The Tribal Appellate Court shall consist of three (3) judges. At least one (1) of the three (3) judges shall be an attorney licensed to practice before the courts of a state in the United

SECTION 4. Appointments and Compensation.

- (a) Appointment to the Court of General Jurisdiction. The judges of the Tribal Court and such lower courts as the Tribal Appellate Court may establish shall be appointed by an affirmative vote of five (5) of the seven (7) members of the Tribal Council for a term of four (4) years.
- (b) Appointment to the Appellate Court. Each judge of the Tribal Appellate Court shall be appointed by an affirmative vote of five (5) of seven (7) members of the Tribal council for a term of six (6) years.
- (c) Compensation. The Tribal Council shall have the power to establish the level of compensation for each judge; provided that the compensation due to each individual judge shall not be diminished during his/her appointment.

SECTION 5. Eligibility for Appointment and Service. Any person shall be eligible to serve as a tribal court judge only if he/she:

- (a) Is a member of the Grand Traverse Band who has attained the age of eighteen (18) and/or is an attorney licensed to practice before the courts of a state in the United States.
- (b) Is not presently a Tribal Council member or running to become a Tribal Council member; and
- (c) Has not been convicted, within ten (10) years of such appointment, of any felony by a court of competent jurisdiction.

SECTION 6. Judicial Independence. The Tribal Judiciary shall be independent from the legislative and executive functions of the tribal government and no person exercising powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government; provided that the Tribal Council shall be empowered to function as the Judiciary of the Grand Traverse Band until the judges prescribed by this Article have been appointed; provided further that the first Tribal Council elected under his Constitution shall make appointments to its courts within ninety (90) days after its members are elected.

SECTION 7. Practice and Procedure. The Tribal Judiciary shall by general rules establish, modify, amend, or simplify the practice and procedure in all courts of the Grand Traverse Band.

SECTION 8. Removal of a Tribal Judge. The Tribal Judiciary may remove any judge by an affirmative vote of a majority of all other members of the Judiciary for:

- (a) Unethical conduct, as defined by the American Bar Association Code of Judicial Conduct;
- (b) Physical or mental disability which prevent the performance of judicial duties;
- (c) Persistent failure to perform duties;
- (d) Gross misconduct that is clearly prejudicial to the administration of justice; or
- (e) Ineligibility, under Section 5 of this Article, to serve as a member of the Tribal Judiciary.

SECTION 9. Vacancies in the Tribal Judiciary. Any vacancy in the Tribal Judiciary shall be filled by the Tribal Council in the same manner as the original appointment for the balance of the unexpired term.

ARTICLE VI: TRIBAL LAW

This Constitution, ordinances, resolutions, regulations, and judicial decisions of the Band shall govern all people subject to the Grand Traverse Band's jurisdiction.

ARTICLE VII - ELECTIONS

SECTION 1. First Election of Tribal Council Members.

- (a) The first election under this Constitution of seven (7) Tribal Council members, which includes the election of a chairperson, shall be conducted in accordance with Article III, Section 1 and this Article.
- (b) The first election shall be conducted no later than one hundred eighty (180) days after this Constitution is adopted. The date for the election shall be set by the Tribal Council in office when this Constitution is adopted.
- (c) The first election shall be conducted to implement a system of staggered terms of service by Tribal Council members. The three (3) candidates for the office of Tribal Council who receive the highest number of votes shall each serve an approximate four (4) year term of office. The three (3) candidates who receive the next highest number of votes for the office of Tribal Council shall each serve an approximate two (2) year term of office.
- (d) The office of chairperson shall be separate from the other Tribal Council offices on the ballot. The candidate who receives the highest number of votes shall be declared elected and shall serve an approximate four (4) year term of office.
- (e) The above-mentioned terms of office shall be approximate in order to allow following elections of Tribal Council members and chairperson to be conducted and the resulting terms of office to commence in the month of May pursuant to Section 2(a)(1) of this Article and Section 2 of Article III.
- (f) The Tribal Council in office when this Constitution is adopted shall appoint an Election Board consisting of five (5) adult members of the Band who reside within the six-county primary service area of the Tribe. Such appointments shall be made no later than thirty (30) days after this Constitution is adopted.
- (g) The service of the Election Board members appointed to conduct the first election shall expire immediately upon completion of their duties, in order that the first-elected Tribal Council may make appointments to the Election Board.
- (h) The Election Board shall issue, pursuant to Section 5 of this Article, such rules and regulations as it deems necessary to properly conduct the first election. Such rules and regulations shall be issued no later than forty-five (45) days after appointments are made to the Election Board.
- (i) The Election Board shall register eligible voters of the Tribe and provide for conducting the first election.

SECTION 2. Election Methods.

- (a) Regular Elections.

- (1) After the first election, members of the Tribal Council shall be elected in the month of May, the date to be set by the Tribal Council.
 - (2) The conduct of all tribal elections, after the first election, shall be prescribed and provided for by the Election Board.
- (b) Special Elections. Special elections shall be called when appropriate by the Election Board to remove, recall, and fill vacancies of elected officials and to submit initiatives and referenda to the membership.

SECTION 3. Voting.

- (a) Any member duly enrolled in the Grand Traverse Band who is at least eighteen (18) years old, has been a resident for a period of at least six (6) months in the six-county area of Antrim, Benzie, Charlevoix, Grand Traverse, Leelanau, and Manistee, and is registered to vote on the date of any given tribal election shall be eligible to vote in that tribal election.
- (b) Voting in tribal elections shall be by secret ballot cast at polls established by the Election Board.
- (c) Absentee voting shall be permitted in accordance with such rules and procedures as shall be established by the Election Board.
- (d) A majority vote of those voting in an election shall constitute action by the Band and such vote shall be conclusive on the Band, unless multiple candidates run for a particular office. In such an instance, the candidate(s) who receive(s) the highest number of votes shall be elected.

SECTION 4. Qualifications for Candidates.

- (a) Age Requirements.
 - (1) Tribal Chairperson. To be eligible to be a candidate for tribal chairperson, a person must be a member of the Band and be at least twenty-five (25) years old on the date of the election.
 - (2) Other Tribal Council Positions. To be eligible to be a candidate for other Tribal Council positions, a person must be a member of the Band and be at least eighteen (18) years old on the date of the election.
- (b) Residency Requirement. Candidates running for tribal chairperson or other Tribal Council positions shall have maintained residence in the six-county primary service area of the Tribe for a period of six (6) months prior to the election.
- (c) Disqualification from Candidacy. No person shall be eligible to be a candidate for election to the Tribal Council who has been convicted of any felony by a court of competent jurisdiction, unless such person has not been convicted of such felony within the preceding ten (10) years.

SECTION 5. Election Board.

- (a) The Tribal Council shall appoint an Election Board, composed of five (5) registered voters of the Grand Traverse Band, to hold elections, certify election results, and settle election disputes other than allegations of impropriety by the Election Board. The decisions of the Election Board shall be final and conclusive on the Grand Traverse Band.
- (b) The term of office for an Election Board member shall be four (4) years.

- (c) Allegations of impropriety by the Election Board shall be settled by the Tribal Judiciary.
- (d) Tribal members presently holding Tribal Council office or running for office shall not be eligible to serve as an Election Board member.
- (e) The Election Board shall be authorized to issue such rules and procedures as may be necessary to carry out tribal elections and to provide for ongoing voter registration.
- (f) Any candidate for tribal office may choose a representative to be present when the election ballots are counted by the Election Board.
- (g) A Band member shall have five (5) business days from the date of the election to file an election challenge.

ARTICLE VIII - RECALL, REMOVAL, AND VACANCIES

SECTION 1. Recall: Dismissal From Office By Voters of the Tribe.

- (a) An ordinance shall be enacted by the Tribal Council to provide for the recall of any elected official of the Grand Traverse Band. Any elected official of the Band shall be subject to recall at any time after holding office for one (1) year upon a petition signed by electors equal in number to twenty-five percent (25%) of the number of persons registered to vote in tribal elections; provided that each official shall be subject to only one recall petition per term.
- (b) The Election Board shall receive and verify the petition and its signatures within ten (10) business days of receipt of the petition by the Board.
- (c) A recall election shall be scheduled by the Election Board within thirty (30) days of the Board's verification of the petition and its signatures.

SECTION 2. Removal: Dismissal From Office Initiated by the Tribal Council.

- (a) The Tribal Council may, by an affirmative vote of five (5) members of the Council, refer to the Tribal Judiciary for removal from office any member of the Tribal Council for any of the following reasons:
 - (1) Failure to attend three (3) consecutive meetings without a valid excuse;
 - (2) Gross misconduct;
 - (3) Misconduct in office;
 - (4) Incapacity from physical or mental disability, to the extent that he/she is incapable of exercising judgment about or attending to the transactions of the Tribal Council;
 - (5) Cessation of membership in the Grand Traverse Band;
 - (6) Failure of the Council member to maintain residence in the six-county primary service area of the Tribe; or
 - (7) Conviction of any felony by a court of competent jurisdiction.
- (b) The official sought to be removed shall be notified in person or by registered mail, restricted delivery to the individual involved, at least ten (10) days before any meeting at which the tribal officials referral for removal from office 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 official that he/she may appear to defend against such referral.

- (d) If the Tribal Council votes to refer to the Tribal Judiciary a tribal official for removal, the grounds for removal shall be set forth with specificity and the tribal official shall be suspended from office until the Tribal Judiciary rules on the referral.
- (e) Before the Tribal Judiciary rules on any referral for removal from office, it shall afford the accused a hearing upon due notice at which 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 shall remove the tribal official from office.
- (g) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council do not exist, the suspended Council member shall be fully reinstated to the Council.

SECTION 3. Vacancies in the Tribal Council.

- (a) The office of any Tribal Council member who dies, resigns, is convicted of any felony by a court of competent jurisdiction while in office, is recalled, or is removed shall automatically be deemed to be vacant. Resignation of office shall be written and shall be deemed to be effective as of the date tendered unless otherwise stated in the resignation document.
- (b) A vacancy in the office of tribal Chairperson shall be filled by a special election for the balance of the unexpired term.
- (c) Any other vacancies in the Tribal Council shall be filled until the next regularly-scheduled election of Tribal Council members in the following manner:
 - (1) the first three (3) vacancies occurring between regularly-scheduled elections of Tribal Council members shall be filled by Tribal Council appointment;
 - (2) further vacancies occurring between regularly-scheduled elections of Tribal Council members shall be filled by a special election only; and
 - (3) the filling of vacancies and the terms of service of those who fill vacancies shall maintain the integrity of the staggered election process mandated by this Constitution.
- (d) Any Tribal Council member who is serving office by appointment shall only serve until the next regularly-scheduled election for Tribal Council members.
- (e) Any Tribal Council member taking office under the provisions of this Section shall be deemed to be subject to all provisions of this Constitution and to tribal ordinances and resolutions generally applicable to elected officials and to their particular office.
- (f) Any special election required to be held under this Article shall be conducted in accordance with applicable provisions of this Constitution and with any applicable tribal ordinance. If a regular election is scheduled to be held within the time permitted to hold a special election, all issues shall be submitted to a vote at the regular election.

ARTICLE IX - INITIATIVE AND REFERENDUM

SECTION 1. Initiative.

- (a) The members of the Band shall have the power to propose, by initiative, any ordinance to the Tribal Council or to repeal or amend any ordinance in accordance with the provisions of this Article; provided that ordinances making appropriations for tribal institutions or ordinances establishing the tribal budget shall be exempt from the initiative process.
- (b) The procedure for initiative shall be as follows:
 - (1) The proponents of an initiative shall submit their proposal in writing to the Tribal Council for examination as to technical sufficiency and to insure clarity before such proposal is circulated to obtain the requisite support. The Council shall submit comments and recommendation in writing within fourteen (14) days to the proponents of such initiative.
 - (2) If the proponents of the initiative refuse to incorporate the Tribal Council's recommendations, the Tribal Council may propose a different law upon the same subject. In such event, both proposals shall be submitted to the registered voters of the Band at the same election.
 - (3) If a dispute arises over the legal appropriateness of such initiative, the matter shall be resolved by the Tribal Judiciary.
 - (4) Initiative petitions must be signed by at least twenty-five percent (25%) of the registered voters of the Band. After the signatures have been verified by the Election Board, the initiative and the verified petition shall be presented to the Tribal Council.
 - (5) The election on the initiative shall be held no sooner than ninety (90) days and no later than one hundred eighty (180) days from the date the initiative and the verified petition are filed with the Tribal Council. The date of the initiative election shall be set by the Tribal Council.
 - (6) The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council; provided that at least twenty-five percent (25%) of the registered voters of the Tribe cast ballots in said special election. If less than twenty-five percent (25%) of the registered voters of the Tribe cast ballots in said election, the initiative shall be deemed to be defeated.
 - (7) If an initiative is defeated in an election, the same matter cannot again be the subject of an initiative election for at least two (2) years.
 - (8) There shall not be more than one (1) initiative election per calendar year.

SECTION 2. Referendum.

- (a) The Tribal Council shall upon an affirmative vote of five (5) Council members submit to a vote of registered tribal voters any proposed or previously-enacted ordinance at a referendum election.
- (b) The procedure for a referendum election shall be as follows:
 - (1) Referendum elections shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the voters. The date of the referendum election shall be set by the Tribal Council.
 - (2) The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council; provided that at least twenty percent

(20%) of the registered voters of the Tribe cast ballots in the referendum election.

SECTION 3. Initiative or Referendum Effect. Any initiative or referendum approved pursuant to the provisions of this Article shall take effect ten (10) days after certification of the election. No law adopted by the membership of the Band under the initiative provisions shall be amended or repealed except by a vote of the electors, unless otherwise provided in the initiative proposal.

ARTICLE X - CONSTITUTIONAL RIGHTS

SECTION 1. Constitutional Rights of Members. The Grand Traverse Band in exercising the powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech or of press, or of the right of the people to assemble peaceably and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself/herself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him/her, to have compulsory process for obtaining witnesses in his/her favor, and at his/her expense to have the assistance of counsel for his/her defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year or a fine of \$5000, or both;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any bill of attainder or ex post facto law; or
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

SECTION 2. Treaty Rights and the Development of Tribal Resources. Members of the Grand Traverse Band shall have the right to fish, hunt, trap and gather food from plants, subject to reasonable restrictions established by the Tribal Council for protection of the resources; provided that this Section does not include the right to commercially develop tribal resources, such right being reserved to the Band; provided further that the Band may license members to commercially develop the resources of the Grand Traverse band.

ARTICLE XI - TRIBAL LAND

SECTION 1. Encumbrances of Tribal Land. The Tribal Council may authorize only the following encumbrances of tribal land, subject to the approval required by existing statutory authority, without submitting the proposed encumbrances for approval or rejection to the registered voters of the Band:

- (a) Tribal development of the land for residential, agricultural, commercial, or industrial purposes.
- (b) Land use assignments for residential or agricultural purposes;
- (c) Leases for residential, agricultural, commercial, or industrial purposes; or
- (d) Grants of rights-of-way for the benefit of tribal members, heirs, or descendants of tribal members who hold a land use assignment or a lease.

SECTION 2. Land Use and Natural Resources Conservation Plans Required. The Tribal Council shall by ordinance establish a comprehensive land use and natural resources conservation plan for lands and natural resources subject to tribal jurisdiction.

SECTION 3. Article Construction. This Article shall not be construed to deny the Tribal Council its power and authority to regulate activities on tribal land.

ARTICLE XII: CONFLICT OF INTEREST

SECTION 1. Personal Financial Interest. In carrying out the duties of tribal office, no tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a personal financial interest, other than interests held in common by all tribal members, against the best interests of the Band.

SECTION 2. Employment Prohibitions. No Tribal Council member may be employed in a position that conflicts with his/her role as a Council member. Such conflicts include, but are not limited to, the following:

- (a) employment in a program that is controlled by the Tribal Council directly or indirectly through a tribal manager; and
- (b) employment in a program management position unless such employment is by a subordinate for-profit business organization chartered by the Tribe.

SECTION 3. Financial Disclosure. Within ninety (90) days of being elected/appointed, the Chairperson and any other salaried Tribal Council members shall be required to file financial disclosure statements similar to those required of certain officials of the federal government.

ARTICLE XIII - SOVEREIGN IMMUNITY

SECTION 1. General Prohibition. The Tribal Council shall not waive or limit the right of the Grand Traverse Band to be immune from suit, except as authorized by this Article or in furtherance of tribal business enterprises upon a resolution approved by an affirmative vote of five (5) of the seven (7) members of the Tribal Council.

SECTION 2. Suits Against the Grand Traverse Band in Tribal Courts by Tribal Members.

- (a) The Grand Traverse Band and Tribal Council members, in their official capacities, shall be subject to suit in the tribal court system by tribal members for the purpose of enforcing rights and duties established by this Constitution and by the ordinances and resolutions of the Tribe.
- (b) Tribal members shall not be entitled to an award of damages, as a form of relief, against the Grand Traverse Band or its Tribal Council members in their official capacities; provided that the Tribal Council may by ordinance waive the right of the Grand Traverse Band to be immune from damages in such suits only in specified instances when such waiver would promote the best interests of the Band or the interests of justice.
- (c) If the tribal member bringing a suit prevails on the merits in the Tribal Judiciary, the costs or bringing the suit may be charged to the Band, if so ordered by the Tribal Judiciary.
- (d) The Band, however, by this Article does not waive or limit any rights which it may have to be immune from suit in the courts of the United States or of any state.

ARTICLE XIV: SEVERABILITY

If any provisions of this Constitution shall be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XV: AMENDMENTS

SECTION 1. This Constitution may be amended by a majority vote of the qualified voters of the Grand Traverse Band voting in an election called for such purpose by the Secretary of the Interior or his authorized representative; provided that at least thirty percent (30%) of those entitled to vote shall vote in such election.

SECTION 2. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Tribal Council or upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Grand Traverse Band.

ARTICLE XVI: ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Grand Traverse Band voting at a special election called for such purpose by the Secretary of the Interior or his authorized representative, in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of his approval.

ARTICLE XVII: CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Acting Assistant Secretary - Indian Affairs on December 23, 1987, the attached Constitution of the Grand Traverse Band of Ottawa and Chippewa Indians was submitted to the qualified voters of the Tribe and on February 24, 1988 was duly adopted by a vote of 376 for and 47 against and 3 cast ballots

found spoiled or mutilated in an election in which at least 30 percent (30%) of the 635 members entitled to vote, cast their ballot in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378) and May 1, 1936, (49 Stat. 1250).