

TRIBAL CODE
CHAPTER 100:
CEMETERY ORDINANCE

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HISTORY NOTE:

Current Ordinance:

Resolution 2015-189, adopted August 18, 2015, adopts Tribal Code 100: Cemetery Ordinance.
Effective immediately.

TRIBAL CODE

CHAPTER 100:

CEMETERY ORDINANCE

100.101 Purpose and Policy.

(1) The purposes of this Ordinance are to establish Cemeteries on Sault Ste. Marie Tribe of Chippewa Indians (“SSMTCI”) Trust Lands and to govern the allotment of burial rights in a plot, burial eligibility and the maintenance of the grounds within the Cemeteries.

(2) It is the policy of the SSMTCI that burial in any Cemetery regulated under this Ordinance shall be available to enrolled SSMTCI Tribal members, their spouses, and their children, and also to any person with family members already buried in specific SSMTCI Cemetery.

100.102 Definitions.

(1) This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Burial Right” means the right to be buried in a specific plot in a Tribal Cemetery.

(b) “Children” means the natural, step and adopted children of a person, or children of a common law marriage or Native traditional marriage where that marriage took place in a jurisdiction that recognizes common law marriages or Native traditional marriages where at least one spouse is an enrolled Tribal member.

(c) “Committee” means the Committee of the Cemetery, as established by the SSMTCI Board of Directors. When the term “Committee” or phrase “the Committee” is used in this Ordinance, they shall mean the specific Committee of the respective Cemetery.

(d) “Enrollment Department” means the SSMTCI Enrollment Department.

(e) “Immediate Family” means a person’s spouse and/or children.

(f) “Sexton” means the person designated by vote of the Committee

or appointed by the SSMTCI Board of Directors to serve the roles of primary point of contact for the respective Cemetery, liaison with funeral directors, recorder of burial locations at the respective Cemetery, and other duties as specified in the applicable Committee Bylaws and/or Policies.

(g) “Spouse” means a person’s husband or wife including a common law or Native traditional marriage husband or wife where the marriage took place in a jurisdiction that recognizes common law marriages or Native traditional marriages.

(h) “Tribe” or “Tribal” means the SSMTCI.

(i) “Vandalism” means the willful and unauthorized destruction or defacing of any land, monument, flush marker, tree, shrub, plant, building or other natural or artificial structure on Cemetery property.

(j) “Wequayoc Cemetery Committee” means the Committee that oversees and manages Wequayou Cemetery.

(k) “Wequayou Cemetery” means the Cemetery established by the SSMTCI Board of Directors located at 2354 E. M-134 in Hessel, MI 49745.

100.103 Tribal Cemetery on Trust Lands.

(1) Establishment of Tribal Cemetery on Trust Lands. The Tribal Board of Directors may, from time to time, designate specific parcels of land to be put into trust and established as SSMTCI Tribal Cemetery property where enrolled Tribal members, their spouses and their children may be buried. Each Cemetery established under this Ordinance shall be given a proper name and the Board of Directors shall, in accordance with Section 100.104, establish and designate a corresponding Committee for each respective Cemetery. The established Committee shall oversee the respective Cemetery’s operations and carry out the provisions of this Ordinance and applicable law.

(2) Eligibility for Burial in Cemetery on Tribal Trust Land. Eligibility for burial in a SSMTCI Tribal Cemetery shall be limited to (a) enrolled Tribal members and their Immediate Family members, (b) any other person who has Immediate Family members already buried in a specific SSMTCI Cemetery, and (c) Repatriated human remains.

(3) Eligibility to be Allotted Burials Rights in Plots. The following persons may be allotted burial rights in plots on behalf of themselves or other persons eligible for burial under subsection (2):

- (a) Individual Tribal members.
- (b) Non-SSMTCI spouses of Tribal members.
- (c) Non-SSMTCI children of a Tribal member.

(d) Any person who has an immediate family member already buried in a specific SSMTCI Cemetery.

(4) Number of Burial Rights in Plots that may be allotted. A person or family may be allotted only as many burial rights in plots as they have Immediate Family members eligible for burial in such plots.

(5) Ownership of Allotted Burial Rights in Plots.

(a) Ownership of allotted burial rights in plots may be conveyed only to Immediate Family members. In the event that a burial right in a plot is inherited or otherwise acquired by an individual who is not eligible to be buried in that plot as defined in subsection (3) of this section, the burial right in the plot shall revert to the Tribe in accordance with subsection (7) of this section.

(b) Ownership of an allotted burial right in a plot does not convey title to or an ownership interest in the actual land of the plot; it merely constitutes the right to be buried in the particular location of the plot provided that the person is eligible for such burial under section subsection (3) of this section.

(6) Costs and Expenses of Burial Rights in Plots.

(a) Each respective Committee shall determine via policy whether there will be a fee to be allotted a burial right in a plot at the respective Cemetery. If an allotment fee is established by the Committee, the fee shall be paid prior to burial, unless otherwise directed by the Committee. The proceeds of allotment fees of burial rights in plots shall be used for the care and improvement of the respective Cemetery, avenues leading thereto, operating expenses and/or any other use the respective Committee deems appropriate.

(b) Any and all expenses associated with the burial, including but not limited to funeral expenses, plot opening, closing, marker fees, vault/cement liner, fees for allotment of burial rights, ceremonial/spiritual/religious service provider honorariums, etc., shall be the responsibility of the deceased individual's family or the person making final arrangements.

(7) Resale of Burial Right in Plots. Burial rights in plots may be resold (if an allotment fee was associated with such burial right) or conveyed only through the Enrollment Department or respective Cemetery Committee and only to the Tribe or to eligible persons under this Ordinance. Burial rights in plots sold or reverted to the Tribe shall be purchased by the Tribe at the original allotment fee price as set by the respective Committee, if a fee was charged.

(8) Repatriated Remains. Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA). Notwithstanding the provisions of subsection (2) and (3) of this section, human

remains returned to the Tribe shall be the responsibility of the Tribe's Cultural Division and may be reburied in an appropriate location within the Cemetery. The Tribe's Cultural Division shall collaborate with the appropriate respective Committee for any such matter involving repatriated remains.

100.104 Cemetery Committees.

(1) Establishment of Tribal Cemetery Committee. Upon the establishment of a Tribal Cemetery on Trust Land, the Tribal Board of Directors shall also establish and designate, via resolution, a Committee for each respective Cemetery to oversee and manage the operations of the respective Cemetery in accordance with this Ordinance and applicable law. Each Committee shall be established in accordance with Section 100.104(2). Each established Committee, and any Board approved special requirements or provisions applicable to the respective Cemetery, shall be set forth in Section 100.109.

(2) Committee Requirements. The Committee shall consist of at least five (5) members. Membership on each Committee shall be determined by each respective Committee and set forth in the respective Committee bylaws. Each Committee shall also work with a designated funeral director coordinator, when necessary and applicable. Each Committee shall be required to report to and work and collaborate with the SSSMTCI Repatriation Specialist.

(3) Administration and Authority. The SSMTCI Board of Directors and the Committee shall be responsible for carrying out the provisions of this Ordinance and applicable law and the Committee may enter into agreements with person(s) or entities, where needed, in order to carry out their responsibilities under this Ordinance.

(4) Duties and Responsibilities. The Committee shall (some duties and Responsibilities may be assigned by the Committee to the Sexton/Appointed Representative):

(a) create by-laws if and as directed by the Tribe and abide by any and all applicable by-laws as set by the Committee and/or the Tribe;

(b) create, and amend as necessary, policies and procedures for the respective Cemetery in accordance and not inconsistent with this Ordinance and/or applicable law;

(c) create all marketing material with regard to the Cemetery;

(d) control the Cemetery and beautify the same, and may establish regulations respecting it;

(e) meet with, or communicate with, the kin or other interested party of a person permitted to be buried pursuant to this Ordinance whenever a burial right in a plot or burial is requested;

(f) be responsible for maintaining vital statistics of the deceased and reporting such information as may be required by the Tribe;

(g) be responsible for the maintenance of the Cemetery including improvement, safeguard and beautification of the grounds; coordinate mowing with Tribal Facilities Dept. and/or volunteers;

(h) cause portions of land designed to be used for the Cemetery to be surveyed and mapped into burial plots, drives and walks (such recorded map shall be kept and maintained by the SSMTCI Cultural Division); and

(i) report to and work and collaborate with the SSMTCI Cultural Dept.

(5) Conveyance. The Committee may sell and convey burial rights in plots, expressly restricting the use to burials and upon such terms, conditions and restrictions as set forth by the policy of the respective Committee and approved by the SSMTCI Board of Directors.

100.105 Burial Requirements.

(1) Burial Orders. All burial orders must be presented to the respective Committee (or Committee Sexton/Appointed representative) at least twenty- four (24) hours before burial, unless otherwise determined via Committee policy.

(2) Vault Liners. Each respective Committee shall determine via policy whether a cement/vault liner is required at the burial site. Each respective Committee shall also determine via policy their particular requirements for use of a cement/vault liner. If a Committee determines a cement/vault liner is required for the burial site, and/or if a family chooses to have a cement/vault liner, the vault company is required to deliver and install it in the designated burial site.

(3) Plot Sizes. Each plot/grave shall be 4 feet wide by 10 feet in length, unless otherwise determined via policy of the respective Committee.

(4) Orientation of Graves. Orientation of graves shall be left up to the family, subject to the respective Committee's policy and approval of the respective Sexton/Appointed Representative.

(5) Miscellaneous Funeral Ceremony Information.

(a) The Committee is not required to provide pallbearers.

(b) Due to weather conditions it may be necessary to postpone burial side services and/or burial of the deceased temporarily. The final decision to postpone burial side services shall be made by the family, the funeral home, and the respective Sexton/appointed representative. Each respective Sexton/appointed representative and

Committee shall determine the proper procedures and requirements for burials falling within the winter months and whether or not they are allowed and or/feasible.

(c) There must be a minimum of 18 inches of soil above the vault/casket or remains.

(d) Other burial procedures (such as urns, water burials, etc.) shall be determined by the respective Cemetery Committee policy.

(6) Funeral Processions. The respective Sexton/Committee shall be responsible for providing funeral directors with the necessary information so that funeral processions on Cemetery grounds are carried out in accordance with the provisions of this Ordinance.

100.106 Maintenance of Burial Sites.

(1) Maintenance including monument/flush markers, plants and other memorials, and flags and banners shall be determined by the set policy of each Cemetery Committee.

100.107 Prohibited Behavior on Cemetery Grounds.

(1) The following shall be prohibited on Cemetery grounds:

(a) Alcoholic beverages.

(b) Possession and use of firearms, except upon the Committee's written approval for military and memorial services.

(c) Vandalism. Incidents of vandalism/abuse of property shall be reported to the Tribe's law enforcement agency.

(d) No burial plots shall be opened or closed except under the direction and control of the Sexton/Committee, following the policy of the respective Cemetery.

(2) Additional prohibited behavior shall be determined by each respective Cemetery policy and enforced in accordance with applicable law.

100.108 Penalty.

(1) Any person who violates a provision of this Ordinance and/or respective Cemetery policy may be subject to prosecution, civil fines, and court costs pursuant to applicable law.

100.109 Established Cemetery Committees and Specific Cemetery Provisions.

(1) The Tribal Board of Directors, in accordance with Section 100.104(1)

and via resolution No. 2015-128, established and designated the “Wequayoc Cemetery Committee” to oversee and manage the operations of the Wequayoc Cemetery in accordance with this Ordinance and applicable law.