



The Grand Traverse Band of Ottawa and Chippewa Indians

Legal Department

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682 • 231-534-7610 • FAX 231-534-7600

MANDATORY 30-DAY POSTING

MEMORANDUM

TO: Tribal Membership
FROM: GTB Legal Department
RE: 30-day Public Law Posting for "Cemetery Code" - new Chapter 11 to Title 12
DATE: October 3, 2011

Please post the attached proposed revised draft of the above referenced ordinance in an area where GTB tribal members can review.

Any comments regarding the above referenced should be directed to the GTB Legal Department either by writing to the GTB Legal Department, 2605 N.W. Bayshore Dr., Peshawbestown, MI 49682, or by telephone (231) 534-7610, or by e-mail, to Mary.Shomin@gtbindians.com.

Posting Sites:

Administration Building
Accounting Department Annex
Annex II – Human Resources Building
Benodjehn Child Care Center
Clinic
Elder's Complex
Housing
SBR Plant
Natural Resources/Conservation
Maintenance Department
Medicine Lodge – Front Desk
Benzie Satellite Office – via e-mail
Charlevoix Satellite Office – via e-mail
Traverse City Satellite Office - via e-mail
Strongheart Center
Youth Center
Tribal Court

EDC Building

Double Eagle Restaurant –
Employees/Supervisors' Break-room

Leelanau Sands Casino –
Employees/Supervisors' Break-room

Leelanau Sands "The Lodge" –
Employees/Supervisors' Break-room

Turtle Creek Casino –
Employees/Supervisors' Break-room

Attachments

TRIBAL COUNCIL RESOLUTION

Resolution #11-29.2295

**ENACTMENT OF CEMETERY CODE AS
NEW CHAPTER 11 TO TITLE 12, INFRASTRUCTURE**

WHEREAS: The Grand Traverse Band of Ottawa and Chippewa Indians (GTB) became federally-recognized as an Indian Tribe having a government-to-government relationship with the United States effective May 27, 1980 (see 45 Fed. Reg. 18321-322 (March 25, 1980)); and

WHEREAS: GTB is organized under a Tribal Constitution approved by the Secretary of the Interior on March 29, 1988; and

WHEREAS: GTB has elected a full governmental Tribal Council consisting of Derek J. Bailey, Tribal Chairman; Sandra L. Witherspoon, Vice Chair; Robert Kewaygoshkum, Treasurer; George M. Antoine, Secretary; David Arroyo, Councilor; Brian S. Napont, Councilor; and Jane A. Rohl, Councilor; and

WHEREAS: Article IV, Section (1)(c) of the Tribal Constitution provides that a power of the Tribal Council is “[t]o 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;” and

WHEREAS: Article IV, Section (1)(a) of the Tribal Constitution provides that a power of the Tribal Council is “[t]o promote and protect the health, education, and general welfare of the Band and its members;” and

WHEREAS: Pursuant to over a dozen meetings held by the Burial Committee meeting, from 2008 to present, Tribal Council finds that it is in the best interests of the Band and its members to amend Title 12, Infrastructure, to include a new chapter providing for a Cemetery Ordinance.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby amends the Title 12, Infrastructure, by adding Chapter 11, “Cemetery Ordinance.”

BE IT FURTHER RESOLVED that, in accordance with 1 GTBC § 108(c), the effective date of this new section is thirty (30) days after enactment of this resolution to allow for tribal membership review and comments; at that time, official approval of the resolution will take place.

BE IT FURTHER RESOLVED, that the Tribal Council hereby adds Chapter 11 to the Grand Traverse Code Title 12 by the following language:

CHAPTER 11 – GTB CEMETERY ORDINANCE

- § 1101. Purpose and Policy
- § 1102. Adoption, Amendment, Repeal
- § 1103. Definitions
- § 1104. Tribal Cemetery
- § 1105. The [Department “to be determined”]
- § 1106. Burial Requirements
- § 1107. Maintenance of Burial Sites
- § 1108. Prohibited Behavior on Cemetery Grounds
- § 1109. Severability

§ 1101 - Purpose and Policy

Purpose. The purpose of this law is to establish the Grand Traverse Band of Ottawa and Chippewa Indians’ Cemetery (hereinafter, “GTB,” “Grand Traverse Band,” “Tribe”) on the GTB Reservation and to govern the sale of burial plots, burial eligibility, and the maintenance of the grounds within the Cemetery.

Policy. It is the policy of the Grand Traverse Band Tribe that all enrolled Tribal members, their spouses, their parents and their children may be buried in the Grand Traverse Band Tribal Cemetery.

§ 1102 - Adoption, Amendment, Repeal

- (a) This law was recommended by the Grand Traverse Band Burial Committee and adopted by Tribal Council Resolution No. 11-29.2295 on _____, 2011.
- (b) This law may be amended by Tribal Council, pursuant to the procedures set forth in the Grand Traverse Band Legislative Procedures Act, 1 GTBC §§ 104 – 107.
- (c) Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law, is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

- (d) This law is adopted under authority of the Constitution of the Grand Traverse Band.

§ 1103 - Definitions

- (a) 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.

- (1) "Children" means the natural, step and adopted children of an enrolled Tribal member, or children of a common law marriage where that marriage took place in a jurisdiction which recognizes common law marriages where at least one spouse is an enrolled Tribal member.
- (2) "Family" means a Tribal member's parents, spouse or children.
- (3) "Spouse" means the husband or wife of a Tribal member. For purposes of this law, this definition shall include a common law husband or wife of a Tribal member where that marriage took place in a jurisdiction which recognizes common law marriages.
- (4) "Tribe" or "Tribal" means the Grand Traverse Band Tribe of Ottawa and Chippewa Indians of Michigan.
- (5) "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 grounds.

§ 1104 - Tribal Cemetery

- (a) The Grand Traverse Band Tribal Council shall designate a parcel(s) of land(s) as deemed necessary to be used for the Cemetery.
- (b) Eligibility for Burial in Cemetery. Tribal members and their non-Grand Traverse Band spouses, parents and children may be buried in the Cemetery.
- (c) Repatriated Remains. Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act ("NAGPRA"), P.L., 101-6011, 25 U.S.C. 301 et seq., 104 Stat. 3048. All human remains returned to the Tribe shall be the responsibility of Eyaawing Museum, pursuant to authorization of [need to get previous authorization, if any, and add it here].

- (d) Eligibility for Plot Lease Assignment. The following persons may be eligible for a lease assignment burial plots:
- (1) Individual Tribal members.
 - (2) Non-Grand Traverse Band spouses of Tribal members may request lease assignment burial plots for their Grand Traverse Band children and themselves.
 - (3) Non-Grand Traverse Band children of a Tribal member may request lease assignment burial plots for their non-Grand Traverse Band parent who is a spouse of a Tribal member, and for themselves.
- (e) Rights of Lease Assignment of Burial Plots. Rights of lease assignment burial plots may only be willed to family members. In the event that a plot is inherited by an individual who is not a family member as defined in §103(a)(3), pursuant to Tribal Council action, the plot shall be resold to the [Department "to be determined"].
- (f) Cost of Lease Assigned Plots. All fees shall be paid prior to burial. The proceeds of burial plot sales shall be used for the operating expenses, care and improvement of the cemetery and avenues leading thereto. The price of lease assigned plots and services are as follows:
- (1) One "no cost" plot is available to each Grand Traverse Band Member.
 - (2) \$100.00 per plot fee for a family member that is related to a Grand Traverse Band Member.
 - (3) Plot opening, closing, and marking fees are subject to change and will be assessed at the time of burial.
- (g) Reassignment of Leased Plots. Plots may only be reassigned to GTB through the [Department "to be determined"]. Plots reassigned to the [Department "to be determined"] shall be leased/reassigned at the original selling price.

§ 1105 – [Department "To Be Determined"]

- (a) Administration and Authority. The [Department "to be determined"] shall be responsible for carrying out the provisions of this law and may enter into agreements with person(s) or entities, where needed, in order to carry out their responsibilities under this law.

- (b) Duties and Responsibilities. The [Department "to be determined"] shall:
- (1) Meet with the kin or other interested party of a person permitted to be buried pursuant to this law whenever a plot or burial is requested.
 - (2) Be responsible for maintaining vital statistics of the deceased and reporting such information as may be required by GTB.
 - (3) May establish regulations to control and beautify the Cemetery.
 - (4) Be responsible for the maintenance of the Cemetery including the improvement, safeguard and beautification of the grounds.
 - (5) Cause portions of land designed for Cemetery use to be surveyed and mapped into burial plots, drives and walks. Said recorded map shall be kept and maintained in the Land and Road's Program. No such plot or map shall be recorded unless laid out and plotted to the satisfaction of the [Department "to be determined"].
- (c) Conveyance. Upon approval by Tribal Council, the [Department "to be determined"] may sell and convey plotted burial plots, expressly restricting the use to burials, and upon such other terms, conditions and restrictions as the [Department "to be determined"] directs.

§ 1106 - Burial Requirements

- (a) All burial orders must be presented to the [Department "to be determined"] at least twenty-four (24) hours before burial. A cement liner or vault is not required for the burial site, however, if a cemetery liner or vault is purchased, the vault company is required to deliver and install it in the designated burial site. The [Department "to be determined"] does not provide pall bearers. 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 [Department "to be determined"] or their designee.
- (b) Burial of Urns. Each burial site may be used for a maximum of four (4) urns containing ashes of the deceased. All urns or other receptacles used for permanent burial must be of a durable or lasting material. Each additional opening of the plot will require a plot opening, closing, and marking fee.

- (c) Funeral Processions. The [Department "to be determined"] 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 law.

§ 1107 - Maintenance of Burial Sites

- (a) Monuments / Flush Markers. Monuments and Flush Markers shall meet the following requirements:

- (1) Maximum monument height is thirty-six (36) inches from ground up, including base.
- (2) Minimum monument height is twenty-four (24) inches.
- (3) Maximum width of monument / flush marker is the width of the plot.
- (4) Thickness of the monument / flush marker is not to exceed sixteen (16) inches.
- (5) Face of the monument must face in the direction of the deceased's burial site.
- (6) No permanent monument that is susceptible to disintegration or corrosion will be permitted, i.e. wooden crosses, stuffed animals, balloons, metal, etc.

- (b) Plants. The planting of plants on or around burial sites shall comply with the following requirements:

- (1) Plants shall not be planted behind a monument.
- (2) By December 1st of each year, all burial pots and baskets, excluding artificial, will be removed by the [Department "to be determined"] or its designee.
- (3) Plants that exceed burial and/or plot dimensions shall be removed by the [Department "to be determined"] or its designee.
- (4) The planting of vegetables at a burial site is prohibited.
- (5) The use of glass containers at a burial site is prohibited.

- (6) Use of individual water systems is prohibited.
 - (7) All flowers, plants and their containers shall be removed from individual burials and plots by the family when such flowers and plants and their containers have become unsightly and unattractive.
 - (8) All winter baskets shall be removed on or before April 1st of each year.
 - (9) Plants interfering with the maintenance of the cemetery shall be removed.
 - (10) Donations may be accepted for the planting of trees provided the location and purpose shall be for the improvement of the cemetery as a whole as determined by the [Department "to be determined"].
- (c) **Flags and Banners.** Flags or banners shall be removed by the [Department "to be determined"] or its designee when such flags or banners become unsightly, are flown in a disrespectful manner or could reasonably incite violence, racial hatred or community unrest.

§ 1108 - Prohibited Behavior on Cemetery Grounds

- (a) The following shall be prohibited on Cemetery grounds:
- (1) Travel off the roadways in a private vehicle.
 - (2) Motorized unlicensed bikes and recreational vehicles.
 - (3) Cats and dogs.
 - (4) Barbecues, picnics, ball playing, golfing and other related recreational activities.
 - (5) Alcoholic beverages.
 - (6) Possession and use of firearms, except upon the [Department "to be determined"]'s written approval for military and memorial services.
 - (7) Soliciting of business.
 - (8) Persons on cemetery grounds after dusk.
 - (9) Vandalism. Incidents of vandalism shall be reported to the appropriate law enforcement agency.

- (10) Recreational jogging, running, roller skating, roller blading and bike riding.
- (11) Washing of automobiles or other vehicles.
- (b) Placing of fencing, curbing, enclosures, edgings, iron works, wire works, seats, posts, vigil lights and steps at individual burial sites or groups of burial sites. Nothing in this subsection shall prohibit the [Department "to be determined"] from providing for the improvement of the cemetery as a whole by installing any of the above mentioned structures.

§ 1109 - Severability

In the event that any section or provision of this ordinance, or amendments to this ordinance, is held invalid, either by the Tribal Court or subsequent development of Tribal Constitutional standards and practices of the Tribal Council, it is the intent of the Tribal Council that the remaining sections or provisions of this ordinance, and amendments made to this ordinance, shall continue in full force and effect.

APPROVED:

ADOPTED:

Derek J. Bailey, Chairman

George M. Antoine, Secretary

CERTIFICATION

As Secretary of the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians, I hereby certify that the above resolution was approved and adopted at a regular/special session of the Tribal Council held in Peshawbestown, Michigan, on _____, 2011, by a vote of:

__ FOR, __ AGAINST, __ ABSTAINING, and __ ABSENT.

ATTEST:

George M. Antoine, Secretary