

Chapter 7. Traditional Tribal Burial Grounds

8.701 PURPOSE

The purpose of this Statute is to establish the law that governs lands set aside for Traditional Tribal Burials, the sale of burial plots, burial eligibility and the maintenance of the grounds.

(Source: WOS 2009-018, July 26, 2009, Section I)

8.702 POLICY INTENTION

A. The Traditional Tribal Burial Grounds are intended for natural burials. The intent of this Statute is to minimize the impact of burials on the planet. Thus, promoting traditional styles of burials where chemical preservatives are not used and only biodegradable materials are used for caskets and unobtrusive grave markers.

B. The Tribe encourages the use of markers that don't intrude on the landscape. These natural markers can include shrubs and trees, or an engraved flat stone native to the area. The planting of native trees, shrubs and flowers on or near the grave establishes a living memorial and helps form a wildlife area.

C. A Traditional Tribal Burial Grounds is a green place with trees, grasses, and wildflowers, which in turn bring birds and other wildlife to the area.

D. The Traditional Tribal Burial Grounds are a statement of personal values for many people who recognize the Circle of Life and that life is cyclical in nature.

(Source: WOS 2009-018, July 26, 2009, Section II)

8.703 DEFINITIONS

A. "*Burial Ground*" means the land set aside for the specific purpose of earth interments;

B. "*Burial Right*" means a right of earth interment.

C. "*Embalming*" means a process for using preservatives in order to prevent decay of a body.

- D.** *“Interment”* means the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment or burial.
- E.** *“Plot”* means a space of sufficient size to accommodate an interment.
- F.** *“Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”* means “areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).
- G.** *“Tribe”* means the Little Traverse Bay Bands of Odawa Indians.
- H.** *“Vault”* means a lined and sealed unit, generally made of cement, for placement of a casket to prevent the concave of earth after a period of time.

(Source: WOS 2009-018, July 26, 2009, Section III)

8.704 AUTHORIZATION OF BURIAL ARRANGEMENTS

Burial arrangements shall only be authorized by a person designated in a written instrument signed by the decedent, if none designated then by a sworn statement attesting to the authority. Neither the Tribe nor Burial Board shall be required to inquire into the truth of the statement in the sworn statement and shall not be held liable for any unauthorized activities.

(Source: WOS 2009-018, July 26, 2009, Section IV)

8.705 EMBALMING

- A.** Embalming is not required for interment in the Tribal Burial Grounds, except when the burial or cremation does not take place within 48 hours of death or if the deceased had certain communicable diseases.
- B.** The time period of 48 hours starts at the time of death of the deceased.

C. Embalming may be required if the deceased needs to be transported out-side of the Tribal Territorial jurisdiction.

(Source: WOS 2009-018, July 26, 2009, Section V)

8.706 BURIALS

No burial may take place until a Death Certificate has been issued.

(Source: WOS 2009-018, July 26, 2009, Section VI)

8.707 CASKETS OR CONTAINERS

Neither a vault nor casket shall be allowed for a Traditional Tribal Burial. Containers may be required provided that wooden burial containers or cultural containers are acceptable.

(Source: WOS 2009-018, July 26, 2009, Section VII)

8.708 GRAVE MARKERS

A. No permanent raised markers shall be allowed in the Traditional Tribal Burial grounds.

B. Raised markers may be used if made of natural deteriorating items such as wood or other natural materials.

C. Permanent non-raised items may be used such as stone or granite markers.

D. Markers may be represented by small plants or shrubs or non-evasive flora.

E. Deteriorating decorations such as crepe paper-wreaths and other cultural objects may be allowed in the Traditional Tribal Burial Grounds.

(Source: WOS 2009-018, July 26, 2009, Section VIII)

8.709 ACTIVITIES AND CEREMONIES

Tribal Ceremonies and activities that honor the deceased may be performed in the Tribal Burial Grounds.

(Source: WOS 2009-018, July 26, 2009, Section IX)

8.710 BURIAL RECORDS

A. A record shall be kept of all interments of which shall include:

1. Name of Deceased
2. Place of death
3. Name of Funeral Director, if any
4. Place of interment
5. Copy of Death Certificate

(Source: WOS 2009-018, July 26, 2009, Section X)

8.711 TRIBAL BURIAL BOARD

A. A Burial Board shall be established by Tribal Charter Corporation approved by Tribal Council and shall manage the Traditional Tribal Burial Ground through approved regulations for the following areas:

1. The use, care, control, management, restriction, and protection of the burial ground operated by the burial ground organization;
2. Restrict the use of burial ground property;
3. Regulate the placement, uniformity, class, and kind of markers, and other structures in any part of the burial ground;
4. Regulate the planting and care of plants in the burial ground;
5. Prevent the interment of remains not entitled to be interred in the burial ground;

6. Prevent the use of a plot for a purpose that violates the burial ground board's restrictions;
7. Regulate the conduct of persons on burial ground property and to prevent improper meetings at the burial ground; and
8. Other purposes for the protection of the premises and the principles, plans, and ideals on which the burial ground was organized.

B. The Board shall file with the map or plat a written certificate or declaration of dedication of the property delineated by the map or plat, dedicating the property exclusively to burial ground purposes.

C. The Tribal Burial Board is authorized to develop, own, lease, operate, manage, maintain, promote and finance economic opportunities that are in conjunction or ancillary to burials, including but not limited to mortuary services, funeral services, casket-manufacturing, and cremation services.

D. The Tribal Burial Board is authorized to manage any other burial grounds as designated by Tribal Council.

(Source: WOS 2020-004, January 29, 2020, Section XI, Repeal and Replace)

8.712 TRADITIONAL TRIBAL BURIAL GROUNDS

The Traditional Tribal Burial Ground shall contain and encompass all lands designated and approved by Tribal Council as a Traditional Tribal Burial Ground.

(Source: WOS 2009-018, July 26, 2009, Section XII)

8.713 SALE OF PLOTS

A. Only the Burial Board may sell and convey the exclusive right of burial in a plot.

B. Rights in burial plots may not be re-conveyed from an individual to another individual, unless there is prior approval by the Burial Board.

C. An individual may convey or sell back the burial plot to the Burial Board.

(Source: WOS 2009-018, July 26, 2009, Section XIII)

8.714 SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

(Source: WOS 2009-018, July 26, 2009, Section XIV)

8.715 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2009-018, July 26, 2009, Section XV)