

CHAPTER 29 - BURIAL ORDINANCE

29.1	SECTION 1:	PURPOSE AND POLICY
29.2	SECTION 2:	DEFINITIONS
29.3	SECTION 3:	TRIBAL CEMETERY
29.4	SECTION 4:	CEMETERY COMMITTEE
29.5	SECTION 5:	BURIAL REQUIREMENTS
29.6	SECTION 6:	PERPETUAL CARE
29.7	SECTION 7:	EXISTING NON-CONFORMING LOTS (PRIVATE BURIAL SITES)
29.8	SECTION 8:	PROHIBITED BEHAVIORS ON CEMETERY GROUNDS
29.9	SECTION 9:	PENALTY

HISTORY NOTE:

Current Ordinance:

Resolution 06-22-2021F adopted June 22, 2021. Effective immediately.

CHAPTER 29 - BURIAL ORDINANCE

29.1 PURPOSE AND POLICY.

29.1.1 The purpose of this ordinance is to establish rules governing burial plots within the Red Cliff reservation.

29.1.2 It is the policy of the Red Cliff Tribe that burial lots are only permitted within tribally designated cemeteries. Burial on private lots outside of tribally designated cemeteries is specifically prohibited.

29.1.3 It is the policy of the Red Cliff Tribe that burials in designated Cemeteries regulated under this ordinance shall be available to Red Cliff Tribal Members, their spouses, their children, and other individuals approved by the Cemetery Committee.

29.2 DEFINITIONS.

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

- (a) “Ad Hoc Committee” means a committee formed for a specific case only, without general application.
- (b) “Appointed Representative” means the person designated by the Cemetery Committee and appointed by the Red Cliff Tribal Council to serve the roles of primary point of contact for the Cemetery, liaison with funeral directors, recorder of burial locations, and other duties as specified in the applicable Committee By-Laws and/or Policies.
- (c) “Burial Right” means the right to be buried in a specific plot in the designated cemeteries regulated under this ordinance.
- (d) “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 member of the Red Cliff Tribe.
- (e) “Committee” means the Cemetery Committee, as established by the Red Cliff Tribal Council.
- (f) “Immediate Family” means a person’s mother, father, spouse, children, and siblings.

- (g) “Spouse” means a person’s husband or wife including a common law, same sex 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) “Tribal Chairman” or “Vice-Chairman” means the Red Cliff Tribal Chairman and Red Cliff Tribal Vice-Chairman, duly elected.
- (i) “Tribe” a social division in a traditional society consisting of families or communities linked by social, economic, religious, or blood ties, with a common culture and dialect, typically having a recognized leader.
- (j) “Tribal Council” means the Governing Board of the Red Cliff Band of Lake Superior Chippewa.
- (k) “Vandalism” means the willful and unauthorized destruction of defacing of any land, monument, flush marker, tree, shrub, plant, building or other natural or artificial structure.

29.3 TRIBAL CEMETERY

29.3.1 Establishment of Tribal Cemeteries.

The Red Cliff Tribal Council has designated specific parcels within the Red Cliff Reservation where those eligible under RCCL sec. 29.3.2 must be buried. The Cemetery Committee shall oversee the Cemetery’s operation and carry out the provisions of this ordinance and applicable law.

29.3.2 Eligibility for Burial/or reserved Burial Rights in Plots for the Designated Cemeteries.

Eligibility for burial in the designated Cemetery or reserved burial rights in plots shall be limited to:

- (a) Individual Tribal Members;
- (b) Spouses of Tribal Members;
- (c) Children of Tribal Members;
- (d) Non-Tribal Member Parent(s) of Tribal Members; and
- (e) Red Cliff Tribal Affiliated Repatriated Human Remains

29.3.3 Number of Burial Rights in Plots that may be Reserved.

A person or family may reserve only as many burial rights in plots as they have immediate family members eligible for burial in such plots.

29.3.4 Ownership of Reserved Burial Rights in Plots.

- (a) Ownership of reserved 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 RCCL sec. 29.3.2, the burial in that plot shall revert to the tribe in accordance with RCCL sec. 29.3.6 of this section.
- (b) Ownership of a reserved 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 RCCL sec. 29.3.2.

29.3.5 Costs and Expense of Burial Rights in Plots.

- (a) The Committee shall determine the fee for the reserved burial right in a plot. The fees shall be paid prior to burial and can be paid in increments with approval of the committee. All fees shall be used for the care and improvement of the cemetery, operating expenses and/or any other use the committee deems appropriate.
- (b) If an eligible person does not want to reserve a specific plot, the Appointed Representative will assign one. The Appointed Representative shall attempt to accommodate requests for adjoining plots for spouses and immediate family members.
- (c) Any fees not paid in advance shall be addressed through a standard written agreement developed and approved by the Cemetery Committee. The individual(s) executing the Burial Agreement shall bear all financial responsibility for any unpaid fees.
- (d) The person responsible for making the final arrangements for the deceased shall notify the Appointed Representative with a request to excavate the burial site.

29.3.6 Transfer of Reserved Burial Right in Plots.

- (a) Individuals who have already purchased burial plot sites may transfer them back to the Tribe, at their own discretion, through the Cemetery committee. The original fee paid shall be reimbursed by the Red Cliff

Tribe to the individual. If an individual wants to transfer to another burial site plot within the Cemetery, the Cemetery Committee shall review the request and make the decision based on site availability.

- (b) Tribal members may transfer their burial right in a plot to another person eligible for burial with the approval of the Committee.
- (c) No Tribal member shall transfer or assign any plot to any person without the Committee's consent. Any fees paid shall be refunded as appropriate.

29.3.7 Red Cliff Tribal Affiliated Repatriated Remains.

Red Cliff Tribal affiliated human remains may be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA). Notwithstanding the provisions of RCCL sec. 29.3.2 of this section, human remains returned to the Tribe shall be the responsibility of the Tribe's Historic Preservation Office.

29.4 CEMETERY COMMITTEE

29.4.1 The Red Cliff Tribal Council shall establish and designate, via resolution, a Committee for the designated cemeteries to oversee and manage the operations of the cemeteries in accordance with this ordinance and applicable law.

29.4.2 Committee Requirements.

The Committee shall consist of five (5) members. Committee members shall be appointed by the Red Cliff Tribal Council. The term of office for Committee members shall be staggered with three (3) members serving two (2) year terms and two (2) members serving three (3) year terms.

29.4.3 The Cemetery Committee may develop its own Ad Hoc Sub-Committee(s) for short term purposes to carry out the objectives and functions of the Committee.

29.4.4 Appointed Representative.

The Appointed Representative will be designated by the Red Cliff Tribal Council.

29.4.5 Administration and Authority.

The Committee shall be responsible for carrying out the provisions of this Ordinance and applicable law.

29.4.6 Duties and Responsibilities.

The Committee shall (some duties and responsibilities may be assigned by the Committee to the Appointed Representative):

- (a) create and amend as necessary, policies and procedures for the designated cemeteries with approval by the Tribal Council;
- (b) create all public information material with regard to the cemeteries;
- (c) meet with, or communicate with, the family or other interested parties of a person to be buried pursuant to sections 29.3 through 29.6 of this Chapter;
- (d) be responsible for maintaining vital statistics of the deceased and reporting such information as may be required by the Tribal Council and maintain and require written or electronic records of all remains that are located in the cemetery, including all available identifying information. These written and electronic records shall be kept confidential and may only be released in accordance with applicable Tribal law;
- (e) be responsible for the maintenance of the cemeteries including improvement, safeguard and beautification of the grounds; coordinate mowing with Tribal Facilities Maintenance Department and /or volunteers;
- (f) work and collaborate with the-Tribal Historic Preservation Office.
- (g) cause portions of land within the cemetery to be surveyed and mapped into burial plots; and
- (h) administer activities related to the purchase, transfer or cancellation of a plot.
- (i) burial plots shall not be excavated except under the direction and oversight of the Appointed Representative.

29.5 BURIAL REQUIREMENTS

29.5.1 Final Disposition Forms.

All interment/burial final disposition forms must be presented to the Appointed Representative at least twenty-four (24) hours before burial, unless otherwise determined via committee policy. A copy of the original death certificate of the deceased is required within 15 days after death.

29.5.2 Vault Liners.

A concrete/vault liner is not required at the burial site. However, if a family chooses to have a concrete/vault liner, the vault company is required to deliver and install it in the designated burial site in coordination with the Appointed Representative.

29.5.3 Plot Sizes.

Each plot/grave shall not exceed six (6) feet wide by ten (10) feet in length. This size includes urn burials. The headstone/plaque is required to be within these dimensions.

29.5.4 Interment of Urns:

- (a) Each gravesite may be used for a maximum of four (4) urns containing ashes.
- (b) All urn burials on existing burial sites need the approval of the Appointed Representative.
- (c) All subsurface urn burials must be recorded with the Appointed Representative.

29.5.5 Miscellaneous Funeral/Ceremony Requirements:

- (a) There must be a minimum of 18 inches of soil above the vault/casket or remains.
- (b) All vehicles must travel on roadways within the cemetery.
- (c) The Appointed Representative shall be responsible for providing funeral directors with the necessary information so that funeral processions within the designated cemeteries are carried out in accordance with the provisions of this Ordinance.
- (d) Traditional spirit houses shall be allowed in the cemeteries and are not to exceed the plot size referred to in sec. 29.5.3.

29.5.6 Any exceptions to the rules contained in this section and section 29.3 of this ordinance can only be granted by affirmative vote of the Cemetery Committee, obtained in advance. This section shall not be construed to permit any private burial lots after the effective date of this ordinance.

29.6 **PERPETUAL CARE**

29.6.1 All plots include perpetual care, which means the regular mowing and trimming of burial sites during the growing season. This does not mean the maintenance, repair, or replacement of any gravestones, monumental structures, or memorials of any kind or the reconstruction of any damaged gravestones, monuments, or memorials.

29.6.2 Neither the Appointed Representative nor the Cemetery Committee accepts any responsibility for the growth or survival of any plant, flower or shrub planted by the plot owner. The care and maintenance of plantings, markers and monuments is the responsibility of the owner. Plant materials, which are overgrown or in disrepair and which detract from the overall appearance of the cemeteries, are subject to removal.

29.7 **EXISTING NON-CONFORMING LOTS (PRIVATE BURIAL SITES)**

29.7.1 Existing Lots Permitted.

Burial lots existing at the time of the effective date of this ordinance which fail to meet the requirements of this Chapter shall be permitted, provided that any such burial sites that are abandoned shall not be subsequently permitted.

29.7.2 Historic Preservation.

The Tribal Historic Preservation Department is authorized to mark existing private burial lots within the reservation for the purpose of cataloguing and preserving such sites. Marked private burial lots shall not exceed the dimensions specified in sec. 29.5.3 of this Chapter.

29.8 **PROHIBITED BEHAVIORS & ACTIONS IN THE CEMETERY GROUNDS.**

29.8.1 The following shall be prohibited in the Cemetery Grounds:

- (a) Alcoholic beverages;
- (b) Possession and use of firearms, except for military and memorial services;
- (c) Vandalism. Incidents of vandalism/abuse of property shall be reported to the Tribal law enforcement; and
- (d) Littering. No littering is allowed; all refuse must be properly disposed of.

29.9

PENALTIES

29.9.1

Any person who violates a provision of this ordinance may be assessed a civil forfeiture of not more than \$5000.00, and court costs pursuant to applicable law.