

**Chapter 75**  
**CEMETERY LAW**  
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The matters concerning when they bury the body

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**75.1. Purpose and Policy**

75.1-1. *Purpose.* The purpose of this law is to establish the Oneida Tribal Cemetery on the Oneida Reservation and to govern the sale of burial plots, burial eligibility and the maintenance of the grounds within the Cemetery.

75.1-2. *Policy.* It is the policy of the Oneida Tribe that all enrolled Tribal members, their spouses, their parents and their children may be buried in the Oneida Tribal Cemetery.

**75.2. Adoption, Amendment, Repeal**

75.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-19-89-E and amended by resolutions BC-6-29-05-A and BC-1-14-09-E.

75.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

75.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

75.2-4. 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rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law. Specifically, the following are repealed:

(a) BC-03-11-98-N (Resolution regarding Opposition to Disturbance/Removal of Human Burials)

(b) BC-2-18-98-A (Repatriated Human Remains)

75.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**75.3. Definitions**

75.3-1. 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) "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.

(b) "Enrollment Department" means the Oneida Tribe Enrollment Department.

(c) "Family" means a Tribal member's parents, spouse or children.

(d) "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.

(e) "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.

(f) "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.

#### **75.4. Tribal Cemetery**

75.4-1. The Oneida Land Commission shall designate parcel(s) of land of not less than forty (40) acres to be used for the Cemetery.

75.4-2. *Eligibility for Burial in Cemetery.* Tribal members and their non-Oneida spouses, parents and children may be buried in the Cemetery.

75.4-3. *Repatriated Remains.* Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA). All human remains returned to the Tribe shall be the responsibility of Enrollment Department to re-bury in an appropriate location within the Cemetery.

75.4-4. *Eligibility for Plot Purchase.* The following persons may purchase burial plots:

- (a) Individual Tribal members.
- (b) Non-Oneida spouses of Tribal members may purchase plots for their Oneida spouses, their children and themselves.
- (c) Non-Oneida children of a Tribal member may purchase burial plots for their Tribal member parent, their non-Oneida parent who is a spouse of a Tribal member, and for themselves.

75.4-5. *Ownership of Purchased Burial Plots.* Ownership of purchased 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 75.3-1(c), the plot shall be resold to the Enrollment Department in accordance with 75.4-7.

75.4-6. *Cost of Plots.* All fees shall be paid prior to burial. The proceeds of sales of plots shall be used for the care and improvement of the cemetery and avenues leading thereto, and operating expenses. The price of plots and services are as follows:

- (a) \$100.00 plot fee.
- (b) Plot opening, closing and marking fee's are subject to change and will be assessed at the time of burial.

75.4-7. *Resale of Plots.* Plots may only be resold to the Tribe through the Enrollment Department. Plots resold to the Enrollment Department shall be purchased at the original selling price.

#### **75.5. The Enrollment Department**

75.5-1. *Administration and Authority.* The Enrollment Department 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.

75.5-2. *Duties and Responsibilities.* The Enrollment Department shall:

- (a) 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;
- (b) be responsible for maintaining vital statistics of the deceased and reporting such information as may be required by the Tribe;
- (c) control the Cemetery and beautify the same, and may establish regulations respecting it;
- (d) be responsible for the maintenance of the Cemetery including the improvement, safeguard and beautification of the grounds;
- (e) cause portions of land designed to be used for the Cemetery to be surveyed and mapped

into burial plots, drives and walks. Said recorded map shall be kept and maintained in the Division of Land Management and at the Geographic Land Information System (GLIS) office. No such plot or map shall be recorded unless laid out and plotted to the satisfaction of the Enrollment Department.

75.5-3. *Conveyance.* The Enrollment Department may sell and convey plotted plots, expressly restricting the use to burials and upon such other terms, conditions and restrictions as the Enrollment Department directs.

## **75.6. Burial Requirements**

75.6-1. All burial orders must be presented to the Enrollment Department 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 Enrollment Department 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 Enrollment Department or their designee.

75.6-2. *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 and closing fee as well as a marking fee.

75.6-3. *Funeral Processions.* The Enrollment Department 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.

## **75.7. Maintenance of Burial Sites**

75.7-1. *Monuments / Flush Markers.* Monuments and Flush Markers shall meet the following requirements:

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

75.7-2. *Plants.* The planting of plants on or around burial sites shall comply with the following requirements:

- (a) Plants shall not be planted behind a monument.
- (b) By December 1<sup>st</sup> of each year, all burial pots and baskets, excluding artificial, will be removed by the Enrollment Department or its designee.
- (c) Plants that exceed burial and/or plot dimensions shall be removed by the Enrollment Department or its designee.
- (d) The planting of vegetables at a burial site is prohibited.
- (e) The use of glass plant and flower containers at a burial site is prohibited.
- (f) Use of individual water systems is prohibited.

- (g) All flowers and 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.
- (h) All winter baskets shall be removed on or before April 1<sup>st</sup> of each year.
- (i) Plants interfering with the maintenance of the cemetery shall be removed.
- (j) Donations may be accepted for the planting of trees providing the location and purpose shall be for the improvement of the cemetery as a whole as determined by the Enrollment Department.

75.7-3. *Flags and Banners.* Flags or banners shall be removed by the Enrollment Department 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.

### **75.8. Prohibited Behavior on Cemetery Grounds**

75.8-1. The following shall be prohibited on Cemetery grounds:

- (a) Travel off the roadways in a private vehicle.
- (b) Motorized unlicensed bikes and recreational vehicles.
- (c) Cats and dogs.
- (d) Barbecues, picnics, ball playing, golfing and other related recreational activities
- (e) Alcoholic beverages.
- (f) Possession and use of firearms, except upon the Enrollment Department 's written approval for military and memorial services.
- (g) Soliciting of business.
- (h) Persons on cemetery grounds after dusk.
- (i) Vandalism. Incidents of vandalism shall be reported to the appropriate law enforcement agency.
- (j) Recreational jogging, running, roller skating, roller blading and bike riding.
- (k) Washing of automobiles or other vehicles.
- (l) 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 Enrollment Department from providing for the improvement of the cemetery as a whole by installing any of the above mentioned structures.

*End.*

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BC-5-19-89-E (Adoption of Burial Ordinance)  
 BC-2-23-05-F (Emergency Adoption of Amendments)  
 BC-6-29-05-A (Permanent Adoption of Emergency Amendments)  
 BC-1-14-09-E (Adoption of Cemetery Law)