

BIIMADIIZIIWIN CEMETERY ORDINANCE of 2023

Ordinance #

Article I. Purpose and Policy.

1.01. *Purposes.* The purposes of this Ordinance are to:

- a. Establish Biimadiiziiwin Cemetery on Little River Band of Ottawa Indians (“LRBOI”) Trust Lands; and
- b. Govern the allotment of burial rights in a plot, burial eligibility and the maintenance of the grounds within the Biimadiiziiwin Cemetery.

1.02. *Policy.* It is the policy of the LRBOI that burial in Biimadiiziiwin Cemetery under this Ordinance shall be available to enrolled LRBOI Tribal members, their spouses, and their children, and also to any person with family members already buried in Biimadiiziiwin Cemetery.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* The Biimadiiziiwin Cemetery Ordinance 2023, by Resolution #23-

2.02. *Amendment.* This ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Repeal.* This ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act-Ordinances.

2.04. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid. The invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.05. *Title.* This Ordinance shall be referred to as the “BIIMADIIZIIWIN CEMETERY ORDINANCE of 2023”.

Article III. Definitions.

3.01. *General* As used in their Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings. The word “shall” is always mandatory and not merely advisory. All words not defined herein shall be used in their ordinary and everyday sense.

3.02. *Biimadiiziiwin Cemetery.* “Biimadiiziiwin Cemetery” means the Cemetery established by the tribe located at Custer, Michigan.

- 3.03. *Biimadiiziwin Cemetery Representative*. “Biimadiiziwin Cemetery Representative” means the person that oversees and manages Biimadiiziwin Cemetery appointed by the Tribe to serve the roles of primary point of contact for the Cemetery, liaison with funeral directors, recorder of burial locations at the Cemetery and other duties as specified by applicable regulations and/or policies.
- 3.04. *Burial Right*. “Burial Right” means the right to be buried in a specific plot in the Biimadiizwiin Cemetery.
- 3.05. *Children*. “Children” means the biological, step, and adopted children of an enrolled Tribal member, or children of a Native traditional marriage where that marriage took place in a jurisdiction that recognizes Native traditional marriages where at least one (1) spouse is an enrolled Tribal member.
- 3.06. *Enrollment Department*. “Enrollment Department” means the LRBOI Enrollment Department.
- 3.07. *Immediate Family*. “Immediate Family” means a person’s parents, spouse, sibling and/or children, even if such persons are not Tribal members.
- 3.08. *Spouse*. “Spouse” means a person’s husband or wife including a Native traditional marriage husband or wife where the marriage took place in a jurisdiction that recognizes Native traditional marriages.
- 3.09. *Tribe*. “Tribe” means the Little River Band of Ottawa Indians (LRBOI).
- 3.10. *Tribal Member*. “Tribal Member” means a currently enrolled member of the Little River Band of Ottawa Indians (LRBOI).
- 3.11. *Vandalism*. “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.

Article IV. Tribal Cemetery on Trust Lands.

- 4.01. *Establishment of Tribal Cemetery on Trust Lands*. The Tribe has designated a specific parcel of land in trust and established as Biimadiiziwin Cemetery property where enrolled Tribal members, their spouses and their children may be buried.
- 4.02. *Eligibility for Burial in the Biimadiiziwin Cemetery on Tribal Trust Land*. Eligibility for burial in Biimadiiziwin 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 Biimadiiziwin Cemetery; and
 - c. repatriated human remains.

4.03. *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:

- a. Individual Tribal members;
- b. Non-Little River Band of Ottawa Indians spouses of Tribal members as defined in Section 3.08
- c. Non-Little River Band of Ottawa Indians children of a Tribal member as defined in Section 3.05
- d. Any person who has an immediate family member already buried at the Biimadiiziwin Cemetery.

4.04. *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.

4.05. *Ownership of Allotted Burial Rights in Plots.*

- a. Ownership of an allotted burial right in plots does not convey title 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 4.02
- b. Ownership of an allotted burial right in a plot 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 Sections 4.02, the burial right in the plot shall revert to the Tribe.

4.06. *Costs and Expenses of Burial Rights in Plots.*

- a. Tribal Members shall have no fee for an allotted burial plot. All other eligible for burial shall have a one-time fee to be allotted a burial right in a plot at the Biimadiiziwin Cemetery. An allotment fee is established at \$100.00, the fee shall be paid prior to burial. The proceeds of allotment fees of burial rights in plots shall be used for the care and improvement of the Biimadiiziwin Cemetery.
- 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.

4.07. *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 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, if a fee was charged.

- 4.08. *Repatriated Remains.* Human remains shall be returned to the Tribe in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA) Human remains returned to the Tribe shall be the responsibility of the Tribe's Tribal Historic Preservation Department and may be reburied in an appropriate location within the Biimadiiziwin Cemetery.

Article V. Cemetery Representative "SEXTON"

- 5.01. *Establishment of Biimadiiziwin Cemetery Representative.* "SEXTON" Upon the approval of this Ordinance, a representative to oversee and manage the operations of the Biimadiiziwin Cemetery shall be established within the Tribe's Executive Branch in accordance with this Ordinance and applicable law. The Cemetery Representative "SEXTON" position shall be filled prior to the official opening of the Cemetery.

Representative Requirements. shall work with a designated funeral director coordinator, when necessary and applicable. shall be required to work and collaborate with the Tribe's Tribal Historic Preservation Department regarding repatriated remains.

Administration and Authority. The Biimadiiziwin Cemetery Representative "SEXTON" shall be responsible for carrying out the provisions of this Ordinance and applicable law and current agreements with person(s) or entities, where needed, in order to carry out their responsibilities under this Ordinance.

- 5.02. *Duties and Responsibilities.*

- a. Create regulations and/or policies in accordance and consistent with this Ordinance and any and all applicable law;
- b. Create all information and marketing material with regard to the Cemetery;
- c. Serve as the primary point of contact with the family or other interested party of any person permitted to be buried pursuant to this Ordinance whenever a burial right in a plot or burial is requested.
- d. Serve as the primary point of contact with a designated funeral director/coordinator when necessary and applicable;
- e. Shall work and collaborate with the Tribe's Historic Preservation Department regarding the interment of Repatriated remains within the Cemetery;
- f. Be responsible for Cemetery operations, including the establishment of regulations respecting it;
- g. Be responsible for the maintenance of the Cemetery, including upkeep, improvement, safeguarding, and beautification of the grounds.
- h. Be responsible for any portion of land Designated for future use for the Cemetery to be surveyed and mapped into burial plots, drive, and walkaways. Such recorded map(s) shall be kept and maintained by the Enrollment Department.

Article VI. Burial Requirements.

- 6.01. *Burial Orders.* All burial orders must be presented to the Biimadiiziwiin Cemetery Representative "SEXTON" at least forty eight (48) hours before burial, unless there are unique circumstances justifying a shorter period, including, but not limited to those set forth in Section 6.05
- 6.02. *Plot Sizes.* Each plot/grave shall be 5 feet wide by 10 feet in length.
- 6.03. *Grave Liners; Burial Vaults.* A concrete liner or vault is not required at the burial site. However, if a liner or vault is purchased, the vault company is required to deliver and install it in the designated burial site. When applicable, this delivery and installation should be coordinated with the Biimadiiziwiin Cemetery Representative "SEXTON"
- 6.04. *Burial of Urns.* Each burial plot 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 marking.
- 6.05. *Un-prepared Remains.* Any un-embalmed or non-cremated remains must either remain refrigerated until burial or buried within forty-eight (48) hours after death.
- 6.06. *Burial Grave Depth.* There must be a minimum of eighteen (18) inches of soil above remains contained in a casket urn or other durable receptacle. All un-prepared remains, as defined in Section 6.05, must be buried in the ground at least six(6) feet deep and in a location as designated by the Biimadiiziwiin Cemetery Representative "SEXTON".
- 6.07. *Orientation of Graves.* Orientation of graves shall be left up to the family. Graves sites are east to west direction.
- 6.08. *Pallbearers.* Any decisions regarding pallbearers shall be left up to the family.
- 6.09. *Funeral Processions.* The Biimadiiziwiin Cemetery Representative "SEXTON" 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.
- 6.09. *Weather Considerations.* 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, in consultation with the funeral home and the Biimadiiziwiin Cemetery Representative "SEXTON". The tribe shall determine the proper procedures and requirements for burials falling within the winter months and whether or not they are allowed and/or feasible.

Article VII. Maintenance of Burial Sites.

- 7.01. *Monuments and Flush Markers.* Monuments and flush markers shall meeting the following requirement:
- 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/flush marker must face the direction of the deceased's burial site.
 - f. No permanent monument/flush marker that is susceptible to disintegration or corrosion will be permitted.
- 7.02 *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/flush marker.
 - b. By November 1st of each year, all burial pots and baskets, excluding artificial , shall be removed by the Biimadiiziwiin Cemetery Representative or his/her designee.
 - c. Plants that exceed burial and/or plot dimensions will be removed by the Biimadiiziwiin Cemetery Representative "SEXTON" or hos/her designee.
 - d. The planting of plants on or around burial site is prohibited.
 - e. The uses of glass containers at a burial site is prohibited.
 - f. The use of individual water systems is prohibited.
 - g. All flowers and plants and their containers shall be removed from individual plots by the family when such flowers and containers have become unsightly and unattractive.
 - h. All winter baskets shall be removed on April 1st of each year.
 - i. Plants interfering with the maintenance of the cemetery shall be removed.
- 7.03 *Flags and Banners.* Flags or banners shall be removed by the Biimadiiziwiin Cemetery Representative "SEXTON" or his/her designee when such flags become unsightly, are flown in a disrespectful manner, or could reasonably incite violence, racial hatred or community unrest.

ARTICLE VIII. Prohibited Behavior on Cemetery Grounds.

8.01 *Prohibited Behavior.* The following shall be prohibited on Cemetery grounds:

- a. Travel off roadways in a private vehicle.
- b. Alcoholic beverages.
- c. Possession and use of firearms, except upon the Tribal Council's written approval for military and memorial services.
- d. Vandalism. Incidents of vandalism/abuse of property shall be reported to the LRBOI Public Safety Department.
- e. No burial plots shall be opened or closed except under the direction and control of the Biimadiiziiwin Cemetery Representative "SEXTON", or following the policy of the Cemetery.
- f. Additional prohibited behavior shall be determined by policy and enforced in accordance with applicable law.

ARTICLE IX Penalty.

9.01 *Penalty.* Any person who violates a provision of this Ordinance and/or Biimadiiziiwin Cemetery regulations or policy may be subject to prosecution, civil fines, and court costs pursuant to applicable law.