

STATUTES of the THREE AFFILIATED TRIBES OF THE FORT BERTHOLD INDIAN RESERVATION As Amended through Resolution No.----- (DATE 2019)

3. The Director with the assistance of the Tribal Council through oral histories
APPOINTMENT OF PERSON TO MAKE DECISIONS CONCERNING DISPOSITION OF REMAINS

I, _____, appoint
_____, whose address is
_____ and whose telephone number is
(____) _____, as the person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation. In the event
_____ is unable to act, I appoint
_____, as my alternate person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation.

It is my intent that this Appointment of Person to Make Decisions Concerning Disposition of Remains act as and be accepted as the written authorization presently required by the Three Affiliated Tribes of the Fort Berthold Indian Reservation Cemeteries Management Plan (and any future provisions), authorizing me to name a person to have authority of dispose to my remains.

DATED this _____ day of _____, _____.

(Signature)

DECLARATION OF WITNESSES

We declare that _____ is personally known to us, that he/she signed this Appointment of Person to Make Decisions Concerning Disposition of Remains in our presence, that he/she is 18 years or older and appeared to be of sound mind and not acting under duress, fraud or undue influence, and that neither of us is the person so appointed by this document.

Witnessed By:

_____ Date: _____

Witnessed By:

_____ Date: _____

3. The Director, with the assistance of the THPO, identifying through oral histories

APPENDIX B

FORMS

3. The Director, with the assistance of the THPO, identifying through oral histories

LEGISLATIVE HISTORY

The **Board of Trustees** enacted the Cemeteries Code of the Three Affiliated Tribes of the Fort Indian Reservation (-----, 2019). The Cemeteries Code has not been amended.

3. The Director, with the assistance of the THPO, identifying through oral histories

APPENDIX A

LEGISLATIVE HISTORY

Tribal Elder and family with the assistance of the Director shall give and identify graves and historic sites and create an IGSS file for each one.

- E. As funding allows, the Director may provide more permanent markers for graves with temporary markers, or with badly worn or incomplete identification due to the weathering or destruction of temporary markers.

SECTION 4.05. PLOTTING NEW GRAVES

- A. All open areas will first be examined with ground penetrating radar to reduce the potential of impacting buried cultural features. They will then be plotted on the map as open areas for burial, or for grave access.
- B. Access areas will be left open for roadways, causeways, parking and cul-de-sacs, and maintenance. These will be identified as such on the cemetery map, and no interments will be placed there.

SECTION 4.06. PLANNING CEMETERY ACCESS AND EXPANSION

- A. The TAT will develop a plan for automobile accessibility to each TAT managed cemetery. Because of the rural aspect to some of the cemeteries, such as Homli, Red Elk, and McKay, there may still be problems involved in accessibility due to weather and road conditions. The TAT will attempt to facilitate access to TAT-managed cemeteries for families whenever possible.
- B. Planning for vehicular access to cemeteries and expansion areas, and preparation of areas for expansion of TAT managed cemeteries will be conducted by the Director with the advice of the CRC and the assistance of Public Works or the Cemetery Management Team. The final plan for access and/or expansion, along with an appropriate budget, will be approved and funded by the Board of Trustees.

CHAPTER 5. DISPUTES

SECTION 5.01. MEDIATION

All disputes with the Director over matters under the Director's control or direction may be mediated by the CRC or by one or more of its appointees for this purpose as long as such mediation is approved by the Director's supervisor or the Executive Director.

SECTION 5.02. APPEALS

All appeals of final administrative decisions made by the Director, his or her supervisor or the Executive Director, through the issuance of permits, formal adoption of plans, regulations or rules, made or adopted pursuant to this Code, may be appealed to Tribal Court within 15 calendar days of the final administrative decision.

SECTION 5.03. SOVEREIGN IMMUNITY

Nothing in this Code shall be interpreted as waiving the sovereign immunity of the TAT or its officers or employees..

TRAINING BY FUNERAL HOMES "HOW TO SUPPORT THE FAMILIES

3. The Director, with the assistance of the THPO, identifying through oral histories the location of unknown and unmarked graves;
4. The Director, with the assistance of Public Works, surveying and mapping open spaces in each cemetery through ground penetrating radar and recording any anomalies identified;
5. The Director and Public Works plotting open grave areas for future use;
6. The Director, with the assistance of Land Acquisition, negotiating and, with the assistance of Public Works, constructing access roads to and within cemeteries;
7. The Director, with the assistance of Land Acquisition, planning for and purchasing land for future interments;
8. Public Works maintaining and constructing fences;
9. Public Works cleaning, repairing, and resetting headstones and markers;
10. The Director and Public Works developing maintenance schedules for each cemetery, at least biannually.
11. Public Works eradicating weeds and landscaping with native plants.

SECTION 4.03. MAPPING EXTERIOR BOUNDARIES

- A. The CRPP shall identify the exterior boundaries of all TAT-managed cemeteries through appropriate research, pedestrian surveys and the use of a global positioning system or GPS receiver. CRPP may use a professional land surveyor. The CRPP or Director shall record the boundaries with the TAT Planning Office. Public Works may move existing cemetery fences to better match the legal location as determined by GPS and surveys.
- B. The CRPP, where practical, may use ground penetrating radar to ascertain if any buried features exist outside of the current fence lines, with such information added to the cemetery map and given a number corresponding to the cemetery or grave on the IGSS (if known).
- C. CRPP will create a map for each cemetery using the GPS and radar information to include recorded burials with their identification numbers, open areas for plotting new graves, roads and parking areas. CRPP shall provide copies of the maps to the Director and Public Works.

SECTION 4.04. MAPPING AND RECORDING BURIALS

- A. CRPP shall record the graves at each cemetery through visual identification and recording and matched with any prior cemetery surveys.
- B. The CRPP shall create an IGSS for each grave and take digital photographs of each grave marker face and any permanent grave feature, such as a fence or sculpture. The Director shall give each grave a unique identification number that includes lot or row and space. Graves that are unmarked or have lost their temporary identification information may have a temporary marker installed if the family wishes to have one replaced.
- C. The Director shall place the IGSS information into a database or spreadsheet for use by Enrollment, CRPP, and Public Works. All such information may only be used by family members of the decedents, their genealogists, and the TAT.
- D. The Director may use mortuary information to help identify unmarked graves or graves with damaged or unreadable markers, as well as information gained from discussions with

comply with applicable laws and be respectful of cultural norms and values about interment of bodies near homes and waterways.

3. Property with existing family cemeteries will need special consideration at the time of sale. All real estate contracts must disclose and identify any cemeteries existing within the confines of the property. No one may sell cemetery lots or plots within a private or family cemetery on the Reservation.
- E. Unrecorded or Archaeological. The TAT manages the burial sites at Wyt View (also known as East Bench) as a cemetery but for protection purposes only and not for later expansion. Other burials may be inadvertently found during ground-disturbance or natural erosion. If burials are inadvertently uncovered within the boundaries of the Reservation, Section 6 of the *Policy and Procedures Manual for the Repatriation of Ancestral Human Remains and Funerary Objects*, as amended or replaced, will apply (see Appendix C). The primary procedures of all inadvertent discoveries of ancestral remains and funerary objects are as follows:
1. All ground-disturbing activity is to be halted in the immediate area.
 2. All in-situ human remains and/or burials must be reported immediately to the Tribal Historic Preservation Office and the Fort Berthold Tribal Police Department.
 3. No parts of human remains and/or funerary objects or artifacts shall be handled, removed, collected or photographed without direct supervision and approval of the THPO, or as otherwise authorized in writing by the Cultural Resources Committee or the TAT Board of Trustees.
- F. Most cemeteries on the Reservation were established prior to the adoption of the Land Development Code, or were not permitted through the BIA, or any TAT Committee or committee. These pre-existing cemeteries are non-conforming and require a Conditional Use Permit by the Tribal Planning Office for any future expansion or additions. All of these cemeteries must comply with this Code and all applicable Tribal and federal laws and regulations.

CHAPTER 4. MANAGEMENT OF CEMETERIES

SECTION 4.01. CEMETERIES MANAGEMENT TEAM

In order to accommodate current levels of burial activity and facilitate future growth and access, the TAT Executive Director may appoint a Cemeteries Management Team to address issues for all of the cemeteries under TAT management. This team will consist of Tribal employees from various Tribal programs and departments, including, but not limited to, Cultural Resources Protection Program, Planning Office, Land Acquisition Program, Enrollment Office, Public Works Department, an ex-officio member from the Realty Department of the Bureau of Indian Affairs, and any interested volunteer Tribal members, who will meet on a monthly basis, or as needed, to address and resolve issues concerning cemeteries managed by the TAT, and others. The Director will work with this team. The Director and/or Cemeteries Management Team shall seek funding for its tasks through the Tribal Government or the Bureau of Indian Affairs as well as through grant proposals.

SECTION 4.02. CEMETERY MAINTENANCE AND EXPANSION

- A. All cemeteries on the Reservation need care, maintenance, expansion, documentation, and tasks, including, but not limited to:
1. The Director identifying and mapping the external boundaries of each cemetery;
 2. The Director identifying and recording all existing graves, markers, and features within the cemeteries and creating a searchable database of this information;

Development Code. A map of the cemetery, the names and burial information for any known people to be buried in the cemetery, and a copy of any other cemetery information will be housed with the Director.

- B. All new cemeteries, expansion of existing cemeteries and conversion of cemeteries, listed in Section 3.03 below, need to be approved by the Tribal Planning Office, THPO, NRC, and CRC.
- C. The Director, with the approval of the CRC, may adopt regulations that are consistent with the language of this Code, the Land Development Code, and other applicable laws, to govern the maintenance of private cemeteries to protect the health, safety and welfare of Reservation residents.

SECTION 3.03. TYPES OF CEMETERIES

- A. There are eighteen known cemeteries within the external boundaries of the Fort Berthold Indian Reservation, and the old scouts cemetery, repatriated graves and others yet unknown burials. These cemeteries fall under different ownership categories and types:
 - 1. Owned and managed by the TAT (4);
 - 2. Owned and managed by a religious organization (2);
 - 3. Private or family owned (3);
 - 4. Tribal allotment (6);
 - 5. Unrecorded or archaeological (unknown);
- B. Church Cemeteries. cemeteries within the Reservation are owned by religious organizations: . These cemeteries are historic and in need of expansion. The religious organizations have full responsibility over any interment within their cemeteries. The TAT will assist as requested in the maintenance and management of these cemeteries.
- C. Tribal Member Allotment Cemeteries. There are cemeteries on Tribal member allotments: Picard Family, Family; Family, , and Family). It is the responsibility of the allotment owners to fence and maintain their cemeteries. Even though these are family-owned and managed cemeteries, further expansion or additions to the cemeteries must comply with the policies and procedures of this Code and other Codes and regulations of the TAT. If the allotment owner(s) are unable to care for their cemetery or require assistance to obtain access, the allotment owners may petition the TAT to purchase the cemetery and to include the cemetery as TAT-managed subject to this Code.
- D. Privately-owned Cemeteries On-Reservation.
 - 1. There are privately-owned and managed cemeteries on the TAT that are mostly family interments: Family; Family, Family. The Fowler Family and Stewart Family cemeteries are surrounded by land owned by the TAT. Special compensation has been made to allow the families to continue to visit and inter members in these two cemeteries. The families are expected to maintain them. The Family cemetery is on private land.
 - 2. There are no TAT policies governing interments in private cemeteries. However, once land is dedicated as a cemetery, it remains sacred and unusable for any other purpose to future owners of the property. Cemetery placement and burials must

remains from being scattered within the Reservation, it does not encourage the practice either, especially near root and resource gathering areas and waterways. All cremations on the Reservation shall be buried in a plot within a TAT-managed, religious organization-owned, or private family cemetery. It is up to the wishes of the family and/or decedent if the cremated remains will be interred within a vessel or grave liner, or with a tule mat, buckskin, blanket, or other wrapping.

- B. Prior to disposition in a cemetery or elsewhere on the Reservation, the Director must be presented with the cremation I.D. tag and shall make a notation in the cemetery file or on a Reservation map showing the location where the decedent's remains will be interred or scattered. A plot in a TAT-owned cemetery can be divided to include more than one set of cremains. Tribal members may have access to the map showing where cremains have been interred or scattered in order to avoid such areas when engaged in traditional, subsistence or cultural activities.

SECTION 2.11. DISPOSITION OF INFANT REMAINS

Infant remains deserve the same respect as any other decedent on the Umatilla Indian Reservation. The family or legal guardian of infant remains may inter these remains within a plot in a TAT- owned cemetery as long as the infant qualifies under the guidelines of eligibility in Section 2.01. All other rules and policies in this Code apply also to infant remains. A plot within a TAT-owned cemetery may be divided to include infant remains.

SECTION 2.12. FENCING AND WEED ERADICATION

- A. The Director will work with the Public Works Department and on prioritizing fencing needs for the cemeteries. If needed, the Public Works Department will request additional funds for cemetery maintenance from the Tribal Council.
- B. The Director will work with any available Tribal botanists, any existing TAT native plant nursery, Public Works Department and others to identify native plants that can be used to provide cover for the cemeteries and require minimal water or maintenance. A planting plan and budget for the project will be submitted to the Tribal Council. Grant funds may need to be solicited to fund the project.
- C. The **Director** and Public Works Department will plan for weed eradication and cemetery maintenance that will be approved by the **NRC, CRC** and approved and funded by the Tribal Council.

SECTION 2.13. MARKER PLACEMENT AND REPAIR

The **Director** will identify and prioritize markers that are in need of repair, replacement, or cleaning. All marker repair and resetting will first be approved by the family of the deceased, if known or available. Workshops to learn marker repair, cleaning and resetting can be arranged through the TAT; the cost for this training and supplies can be funded through TAT grants or other avenues.

CHAPTER 3. ESTABLISHMENT AND EXPANSION OF CEMETERIES

SECTION 3.01. ZONING

Cemeteries within the external boundaries of the Reservation are permitted in several zones, subject to the requirements of the **Land Development Code**.

SECTION 3.02. CONDITIONAL USE PERMIT

- A. Development of any new cemetery, expansion of an existing cemetery or conversion of cemeteries listed in Section 3.03 on the Reservation must have a Conditional Use Permit through the Tribal Planning Office and meet certain requirements listed in the Land

Temporary markers are available free to Tribal members by contacting the Cemetery Management Office.

SECTION 2.09. DISINTERMENTS

- A. If interred remains or cremains are to be exhumed for the purpose of removal as a result of dissolution of the cemetery, movement to another cemetery for reburial, official investigation by law enforcement or authorized officials, or other reasons, a disinterment permit and a written plan for disinterment must be filed at the Director's Office by the person with the right to control disposition, and the Director shall notify the CRPP and CRC. State administrative and court orders and orders of non-TAT tribal courts will not be recognized without a valid order from the TAT Tribal Court recognizing such foreign orders.
- B. The right to control the disposition of a decedent's remains shall be by any individual of sound mind who is 18 years of age or older and who qualifies by the list below:
1. the legal spouse of the decedent at the time of death;
 2. the natural or legally adopted son or daughter of the decedent 18 years of age or older;
 3. either natural or legally adopted parent of the decedent;
 4. a natural or legally adopted brother or sister of the decedent 18 years of age or older;
 5. a legal guardian of the decedent at the time of death;
 6. a person in the next degree of kindred to the decedent;
 7. the personal representative of the estate of the decedent;
 8. the person nominated as the personal representative of the decedent in the decedent's last will or Power of Attorney;
 9. a public health officer with proper legal authority;
 10. any person 18 years of age or older delegated by the decedent in a written statement (described in Attachment 1) that has been signed by the required individual and notarized by a notary of good standing Committeeed in the State of Oregon.
- C. If the applicant seeks disinterment without a valid court order, the Director and the applicant will meet with the CRC to discuss the disinterment. Non-court ordered disinterment permits, disinterment plans, and any notarized letters or forms of authority shall be submitted by the Director to the CRC, for approval. Upon approval or as the result of a valid court order, the Director will assist the applicant in implementation of any disinterment plans. Upon disinterment of the remains or cremains, the Director or licensed Funeral Service Provider will check the I.D. tag, and file a change of location in the records of the decedent and with the North Dakota Department of Human Services Center for Health Statistics within 10 days of reinternment.
- D. The TAT does not fund disinterment of remains or cremains. All costs involved in filing the disinterment permit, exhuming, transport, and reinternment of the remains or cremains shall be the responsibility of the decedent's delegate and/or relatives.

SECTION 2.10. CREMATIONS AND CREMAINS

- A. Cremated human remains or cremains are a sanitary natural substance. However, many Tribal members oppose cremation and cremains because of cultural standards regarding the practice of burning a body. The TAT recognizes the right of an individual and that person's family to do what they feel is right for them. Although the TAT does not prohibit cremated

SECTION 2.03. PUBLIC WORKS DEPARTMENT

The Public Works Department shall maintain TAT-managed cemeteries, provide grave opening and closing, marker placement, weed eradication, fencing operations, rodent control, tree maintenance, and other duties. Public Works monitors the opening of new graves to be sure cultural resources or archaeological resources are not disturbed. If any cultural or archaeological resources are found during grave opening, Public Works shall halt all ground disturbance and notify the Director. The Director will notify the THPO. If this area needs to be left undisturbed, an alternate site, given by the family of the decedent and marked by the Director, will be opened.

SECTION 2.04. CEMETERY TRUST FUND

Since the TAT does not charge for cemetery care and maintenance, interments, marker placement, etc., the Director will set-up, promote and manage a charitable fund for these duties with the assistance of the Tribal Finance Department. Funds may be received as gifts, donations, and other contributions.

SECTION 2.05. CEMETERY PROTECTION, SURVEYS AND RESEARCH

- A. No one, except the CRPP, may conduct surveys or research at TAT cemeteries, for any purpose besides family history, without a written permit from the Director and approval from the CRC.
- B. The Director may, from time to time, issue written regulations regarding the management and care of cemeteries. Any such written rules must be consistent with this Code and cannot amend or contradict the terms of this Code. Any such written rules must also be reviewed and approved by the CRC before going into effect. The Director may use signage at the cemeteries informing visitors of who to contact with concerns or of specific rules but only after approval by the CRC.

SECTION 2.06. ROADS AND MOTORIZED VEHICLES

- A. Entry into TAT managed cemeteries will be through gated areas only. Fence cutting or breaching, or vandalism at any Tribal cemetery will be considered destruction of Tribal or Federal property, and will be prosecuted to the full extent of the law. Vehicle parking is available adjacent to the cemeteries and along roads within some cemeteries. Vehicles must remain on roads and designated parking areas unless permitted by the Director for cemetery maintenance or burial purposes.
- B. No person may drive a motorized vehicle off-road within cemetery boundaries without prior authorization. No person shall drive a vehicle at a speed greater than ten miles per hour within a cemetery boundary. All drivers will use caution and restrict any excessive noise while in a cemetery.

SECTION 2.07. LIVESTOCK

With the exception of horse processions for funeral services, livestock (i.e., horses, cattle, sheep, etc.) are not permitted in TAT-managed cemeteries. Animals are not permitted to be buried within TAT-managed cemeteries, unless authorized by the CRC. For the purpose of adhering to cultural practices, horses associated with a funeral may be buried in an adjoining plot if it was the desire of the decedent.

SECTION 2.08. INTERMENTS

The TAT recognizes and respects the individual's and family's right to be interred as they wish. Because of this right, the TAT will not restrict the way a decedent is buried on the reservation. No restriction will be placed as to whether or not a decedent is cremated, embalmed, confined in a coffin or container, or whether a liner will be required for a grave. No memorial stone or marker is required in a TAT-owned cemetery, nor is there a restriction on what type of memorial stone to use.

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5. insures that the cemetery records and maps comply with all applicable public records and privacy laws;
 6. assists the Public Works Department in identifying a suitable location for new interments within TAT-managed cemeteries;
 7. assists Tribal members and the general public in locating relatives and others buried in cemeteries within the Reservation;
 8. assists the Tribal Veterans' Services Director in locating the graves of U.S. veterans in cemeteries within the Reservation, and directs families of veterans to the Tribal Veterans' Services Office; **SCOUTS CEMETERY**
 9. seeks funding for TAT cemetery operations, maintenance and improvements;
 10. works with the Public Works Department to set schedules for cemetery maintenance and needs, and assists the Public Works Department Director with identification of training opportunities for cemetery maintenance employees and volunteers;
 11. maintains a list of religious contacts for funerals, grief counseling, cemetery access, and other public requests;
 12. maintains and promotes the Cemetery Trust Fund;
 13. provides free temporary markers to Tribal members.
- B. The Director is not responsible for funeral arrangements. These are the sole responsibility of the family or other responsible party. The Director will assist the Public Works Department and a decedent's family in identifying a suitable location for a new interment in a TAT cemetery. The family must choose an alternate interment site in case a problem is encountered with their primary selected site. When a decision of placement is made, the Director will begin an IGSS, assign a number to the plot and burial, and will notify Public Works and the CRPP of the family's decision. The Director will coordinate marking the intended plot space with Public Works.
- C. Public Works will monitor all ground disturbances and notify the Director if a problem occurs with the plot. If any cultural feature is found during grave digging all construction will stop at that location, the Director will be notified and a decision will be made between Public Works and the Director as to where to begin digging again. The Director will notify the **CRPP** of the cultural feature and that plot will be noted on the cemetery map. If the feature is an unmarked grave the Director will mark it with a temporary marker, and assign an **IGSS** file and number.

35. "Sexton" means the person employed as the TAT Cemeteries Director and authorized to sign the Final Disposition Authorization prior to interment of a body in an on-reservation cemetery.
36. "Tribal Historic Preservation Office" or "THPO" means the office, located in the Cultural Resources Protection Program, with responsibility for compliance with the National Historic Preservation Act on the Reservation.
37. "Tribal member" means anyone enrolled as a member of the TAT.
38. "Tribal Land Office" means the Tribal office responsible for implementing the Land Development Code.
39. "Tribal Veterans Service Office" means the Tribal office responsible for oversight of services to Tribal veterans.
40. "Tribe or Tribes or Tribal" means the Three Affiliated Tribes of the Fort Berthold Indian Reservation, a federally recognized Indian tribe.

CHAPTER 2. CEMETERY OPERATIONS

SECTION 2.01. TAT MANAGED CEMETERIES

- A. The TAT manages _____ cemeteries within the boundaries of the Reservation: The TAT will be expanding these cemeteries to provide space for future Tribal member interments. Also, the TAT will be working with the BIA and allotment owners to acquire the land for expansions and to provide legal access to other cemeteries on allotments in the near future.
- B. The TAT allow the interment of TAT members and their immediate family in TAT managed cemeteries. Immediate family includes children, parents, grandparents, grandchildren, siblings, spouses, uncles and aunts, great uncles and aunts, nieces and nephews, great nieces and nephews, and first cousins. Children and grandchildren include children of blood, adopted or children who were raised within the home of a TAT member. Spouses consist of legally married couples, including couples married pursuant to chapter 5 of the Family Law Code (concerning traditional, common-law and licensed marriages) and domestic partners established under chapter 13 of the Family Law Code. OTHER?

SECTION 2.02. CEMETERY DIRECTOR

- A. The Cemetery Director is employed by the TAT in the Public Works Department and:
 1. Administers and enforces this Code, applicable federal laws and related policies and procedures for cemeteries on the Fort Berthold Reservation.
 2. may play a role in administering the Funeral Assistance Code, and assists Tribal members with limited funeral and burial arrangements;
 3. acts as the Tribal Sexton to sign and accept the Final Disposition Authorization for all remains to be interred within the boundaries of the Reservation, forwarding a copy of the signed Final Disposition Authorization to the Tribal Enrollment Office and the North Dakota Department of Human Services Center for Health Statistics within 10 days, and maintaining a second copy on file at the Director's office;
 4. maintains, archives, and updates all Reservation cemetery records for: Tribal members and non-members interred on-Reservation, and TAT cemetery plat maps;

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18. "Funeral Assistance Benefits" means the benefits to Tribal members with funeral expenses and costs, supplies, planning, grave markers, etc., as outlined in the Three Affiliated Tribes Cemeteries Code .
 19. "Funeral Service Providers" are any business, group or individual that provides a service for a funeral. The term does not include cooks, servers, singers, drummers, speakers, clergy, pallbearers, and musicians.
 20. "Funerary Objects" means any item that has been placed intentionally at the time of death, or later, with or near the individual human remains as part of the death rite or ceremony of a culture.
 21. "Human remains" or "remains" mean the body of a deceased person in any stage of decomposition or after cremation.
 22. "Individual Grave Marker Survey Sheet" or "IGSS" means a form that is filled out during survey of a cemetery that describes the condition of a memorial stone or grave marker, and the condition of the grave.
 23. "Interment" or "burial" means the disposition of human remains by cremation, inurnment, entombment, or burial beneath the ground.
 24. "Land Acquisition Program" means the program in the Department that purchases land for the Three Affiliated Tribes for Tribal interests.
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25. "Native Plant Nursery" means any TAT program or enterprise that grows and sells native plants.
 26. "Natural Resources Committee" or "NRC" means the Committee authorized to implement elements of the Land Development Code, and to recommend changes in planning policies, procedures, laws or statutes to the Board of Trustees.
 27. "Non-member" means anyone who is not an enrolled member of the Three Affiliated Tribes of the Fort Berthold Indian Reservation.
 28. "On-reservation" means lands within the external boundaries of the Fort Berthold Indian Reservation and subject to the jurisdiction of the Three Affiliated Tribes.
 29. "North Dakota Department of Human Services Center for Health Statistics" means the North Dakota State department charged with receiving, maintaining, and archiving vital records.
 - 30.. "Owner" means the owner of the title to real property or the beneficial owner of trust land or the authorized agent thereof having written notarized authorization recorded with the county clerk, or the contract purchases or real property or record as shown on the last available complete tax assessment roll or county clerk's records. It does not mean an interest created for security purposes.
 31. "Parking area" means a durable, permanently surfaced and marked area, excluding paved area necessary for access, for the parking of a motor vehicle.
 32. "Reservation" means the Fort Berthold Indian Reservation
 33. "Public Works" means the Tribal department that provides grave opening and closing, cemetery maintenance, fencing, and marker placement for TAT owned cemeteries.
 34. "Road" or "Street" means a public or private way created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land, excluding a private way created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

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2. "Allotment" means, for purposes of this Code, an individual parcel of land which is or was held in trust by the United States Government for either an individual Indian or the Tribal government (also known as tribal tracts).
3. "BIA" means the U.S. Department of Interior Bureau of Indian Affairs.
4. "Board of Trustees" or "BOT" means the (9) nine member elected body which constitutes the governing body of the Three Affiliated Tribes of the Fort Berthold Indian Reservation.
5. "Botanist" means any person employed by the TAT or BIA to identify and protect native plants on the reservation.
6. "Cemetery" or "Cemeteries" means any place, dedicated or not, used, or intended to be used, for the permanent interment of human remains.
7. "Cemetery Coordination Office" is the office with the authority to manage on-Reservation cemeteries, assist Tribal members and coordinate cemetery needs.
8. "Cemetery Director" or "Director" is the person employed by the TAT to act as the authority to manage the on-Reservation cemeteries, coordinate cemetery needs, assist Tribal members, and act as the official Sexton in regards to appropriate regulations.
9. "Cemeteries Management Team" means a team of Tribal employees and others, delegated by the Executive Director of the TAT, to work on issues of cemetery management and protection.
10. "Cemetery records" means public and vital record documents of a decedent. These records may include copies or originals of: Death Certificates, Birth Certificates, Obituaries, news articles, Final Disposition Authorization Form, IGSS, and others.
11. "Cemetery Trust Funds" means the definition given in Section 2.04 of this Code.
12. "Conditional Use" means a use permitted or denied at the discretion of the Natural Resources Committee based on findings of fact.
13. "Three Affiliated Tribes of the Fort Berthold Indian Reservation", "Tribes", or "TAT" means the government of the Fort Berthold Indian Reservation established pursuant to the Constitution and Bylaws of the Three Affiliated Tribes of the Fort Berthold Indian Reservation.
14. "Cremation" is the act of reducing the remains of a deceased individual to ashes or "cremains" through burning the body.
15. "Tribal Historic Preservation Office" or "THPO" means the program within the Department of Natural Resources that protects, manages, and preserves archaeological and cultural resources.
16. "Enrollment Office" means the office under the Administration Department of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, which maintains the Tribal Membership Rolls.
17. "Final Disposition Authorization" means the form routinely used to permit burials and filed with state vital statistics departments.

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. TITLE

This code shall be known as the Cemeteries Code of the Three Affiliated Tribes of the Fort Berthold Indian Reservation.

SECTION 1.02. DECLARATION OF NEED

On June 28, 1876 The Ree, Mandan & Grosventre Indian Tribes gave to the American Board of Committeers of Foreign Missions the land they needed for their buildings and cemeteries and promised to use their influence and authority to protect the board and their missionaries in their rights. The churches and families developed many cemeteries on the reservation until 1952 when the Garrison Dam forced the relocation of all the graves that were located in the flood plane of the dam. This resulted in approximately 10 church and 8 family reinternment cemeteries on the reservation.

The Mandan, Hidatsa and Arikara Tribal Council declares that there is a need to ensure orderly burial and maintenance of cemeteries within the boundaries of the Reservation. Uncontrolled and unplanned use of land and property for cemeteries can threaten the fundamental basis and purpose of the creation of the Reservation. The Council also declares that there is a need to ensure that all cemeteries are properly managed in order to preserve and protect them. In order to do so, the Code defines the policies and procedures to manage and maintain existing cemeteries, to create new cemeteries, and to expand cemeteries on the Reservation.

SECTION 1.03. PURPOSE

The purpose of this Code is to protect and preserve all cemeteries on the Reservation. Further, it is the intent of this Code to set forth the administrative procedures, regulations, standards and protocols for the planning and construction of new cemeteries and the enlargement of existing cemeteries, and to insure that all standards and Codes are met to protect the public health, safety and welfare of the residents of the Reservation. The main focus of this Code is to promote orderly development of cemeteries, while being sensitive to the sacred cultural values and traditions of the Tribes.

SECTION 1.04. SEVERABILITY

If any provision, part or parts of this Code or the application thereof to any person or circumstance is held unconstitutional or invalid, the same shall not affect the validity of the remaining portions of this Code.

SECTION 1.05. SCOPE OF THE CODE

The scope of this Code includes but is not limited to: the establishment of standards for (1) the protection and preservation of TAT-managed cemeteries on the Reservation; (2) the location and development of extensions to such cemeteries; (3) the location and development of new cemeteries on the Reservation. It is also intended that this Code address the needs and requirements for compliance with such federal acts as: the Antiquities Act of 1906, the National Historic Preservation Act, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, and other such acts.

SECTION 1.06. DEFINITIONS

- A. The following definitions are applicable to all parts of this Code. Words defined in this Code include the following meanings: words used in the present tense include the future; the word "shall" is mandatory and not discretionary.
- B. The definitions applicable to the entire code are
 - 1. "Access" means the right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

CEMETERIES CODE

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CEMETERIES CODE

THREE AFFILIATED TRIBES
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