

TRIBAL CODE
CHAPTER 31:
MARRIAGE ORDINANCE

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HISTORY NOTE:

Current Ordinance:

Resolution 2015-147, adopted July 7, 2015, adopts Tribal Code Chapter 31: Marriage Ordinance, effective immediately, and rescinds all earlier Marriage Ordinances.

Prior Ordinance:

Enacted as part of the Tribal Code July 5, 1995, Resolution No. 95-89, effective immediately. The enacting resolution provides that any marriage performed prior to the date of enactment pursuant to the provisions of the ordinance is ratified and declared lawful under tribal law.

Prior to the above action there is no record of the current ordinance actually having been adopted by the Board. The Board directed that a marriage ordinance be drafted at a meeting held on July 27, 1983. The ordinance was discussed and tabled by the Board at a meeting on August 21, 1984. The ordinance was "amended" by resolution on October 23, 1984. There is nothing in the minutes between August 21, 1984, and October 23, 1984, to indicate the ordinance was ever adopted. It was later "amended" by resolution on June 21, 1988. The current text is based on the original unadopted text and the two "amendments."

Cases:

Kobogum v. Jackson Iron Co., 76 Mich 498; 43 NW 602 (1889). Recognizes the validity of tribal customary marriages.

Amendments:

Resolution 2000-26, adopted February 23, 2000, amended " 31.107 (4) , 31.108 (1) and (2) and added '31.108 (5).

TRIBAL CODE

CHAPTER 31:

MARRIAGE ORDINANCE

31.101 Purpose.

This ordinance governs the solemnization of marriage within the Sault Ste. Marie Tribe of Chippewa Indians Reservation.

31.102 Recognition of Marriages.

The Sault Ste. Marie Tribe of Chippewa Indians shall recognize as a valid and binding marriage any marriage between two persons formalized or solemnized in compliance with the laws of the place of formalization or solemnization.

31.103 Issuance of License.

The Clerk of the Tribal Court, or designee shall be authorized to issue a license to marry any two people, one of whom is a Tribal member within the Sault Ste. Marie Tribe's jurisdiction. The fee for issuance of a Tribal marriage license shall be an amount not to exceed that of the state court in the local county. The license shall remain valid for 30 days after issuance. The Clerk shall maintain records of the issuance of the marriage licenses and certificates of marriage as permanent records of the Tribe.

31.104 Qualifications for License.

A party seeking to be married shall fulfill all of the following requirements:

- (1) Freely consent to the marriage and have the mental capacity to marry.
- (2) One of the persons must be an enrolled member of the Tribe.
- (3) Be at least eighteen (18) years of age or older, be at least sixteen (16) years of age or older and have the consent of the parent or legal guardian, which consent must be notarized; or have been emancipated by a court or competent jurisdiction.
- (4) Not have an existing spouse.
- (5) Not be blood relatives to each other in each of the following degrees:
 - (a) Parent and child;
 - (b) Grandparent and grandchild;

- (c) Brother and sister, or half-brother and half-sister;
- (d) Uncle/aunt and niece/nephew;
- (e) Cousins in the first degree.

31.105 Application for License.

(1) The application for a Tribal marriage license shall be in the form of an affidavit and shall contain the following for each person:

- (a) The full legal name, including last name before first marriage, if previously married;
- (b) Mailing and street address.
- (c) Age;
- (d) Sex;
- (e) Tribal affiliation;
- (f) Date and place of birth
- (g) If either party was previously married, his or her name, and the date, place, and Court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;
- (h) The names of each person's parents and the place of birth for each parent, if known. For each person's mother, the mother's name before first marriage shall be identified, if known;
- (i) If either person is a minor, the name and address of parents, adoptive parent, or guardian of each party; or if emancipated, certified copies of papers granting emancipation;
- (j) Whether the parties are related to each other and, if so, their relationship;
- (k) The name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated.

31.106 Persons Entitled to Solemnize Marriages.

No marriage performed pursuant to a license to marry issued by the Tribal Court of the Sault Ste. Marie Tribe of Chippewa Indians shall be valid and recognized unless performed by:

- (1) a person having the authority to perform marriages under Michigan law; or
- (2) the Tribal Chairperson, or a person designated by the Chairperson in writing; or

(3) a Tribal Judge or Magistrate of the Sault Ste. Marie Tribe or another federally recognized tribe, the tribal court of which authorizes its tribal judges to perform marriages; or

(4) an Indian traditional practitioner or spiritual leader who is recognized by the parties making the application for the license.

31.107 Permissible Location.

A marriage performed in accordance with this Ordinance shall be solemnized within the territory of the Tribe.

31.108 Qualifications to Perform Traditional Indian Marriages.

(1) For the purpose of this Chapter, a traditional Indian marriage shall be defined as one performed by an Indian traditional practitioner or spiritual leader who has accepted the responsibility to solemnize and formalize marriage by the applicants and further that such person shall be recognized by Order of the Sault Ste. Marie Chippewa Tribal Court.

(2) It is the expressed policy of the Sault Ste. Marie Tribe to recognize traditional marriages so performed provided that the person who has been designated to solemnize or formalize the said marriage by the applicants shall be recognized as an Indian traditional practitioner or spiritual leader by a significant number of Indian persons and provided further that such person shall be recognized by Order of the Sault Ste. Marie Chippewa Tribal Court as being an Indian traditional practitioner or spiritual leader.

(3) Such recognition may come about upon the Court's own motion, or upon the motion of any other person, and such Order of recognition shall not be unreasonably withheld.

(4) The Court or Tribal Board of Directors may prescribe standards for such recognition.

(5) An Indian traditional practitioner or spiritual leader who is recognized by the parties making the application for the license shall be authorized to perform traditional marriages.

31.109 Execution and Return of License.

The person who performs the marriage shall execute the Tribal marriage license and return it to the Tribal Court Clerk as required by this Chapter. It shall be the responsibility of the Tribal Court Clerk to maintain records of marriages performed under the authority of the Tribe.

31.110 Procedure for Recognition of Marriage After Solemnization.

(1) Subsequently to the solemnization or formalization of a marriage performed pursuant to a license to marry issued by the Sault Ste. Marie Tribal Court and within ten (10) days thereof, two fully executed and conformed copies of the marriage license, executed by two witnesses to the ceremony and the person who conducted the ceremony, shall be returned to the Clerk of the Tribal Court.

(2) The Clerk of the Tribal Court shall, within three days, examine the application for a marriage license and the said license and certificate of the person performing the marriage to insure that the information appearing thereupon is properly in accordance with the provisions of the license. Upon a determination that the materials are in proper form and that there has been compliance with the terms of the license, the Court Clerk shall endorse his/her approval upon the license and shall cause a Certificate of Marriage to be issued by the Tribal Court over his or her signature.

(3) The parties to such marriage, should they desire, may obtain such additional copies of the Certificate of Marriage if they should desire, and such certified copies shall be issued by the Clerk of the Court for the same charge as is made for certified copies in any other proceeding.