

CEMETERIES CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

CEMETERIES CODE

TABLE OF CONTENTS

CHAPTER 1.	GENERAL PROVISIONS	1
SECTION 1.01.	Title	1
SECTION 1.02.	Declaration of Need	1
SECTION 1.03.	Purpose.....	1
SECTION 1.04.	Severability	1
SECTION 1.05.	Scope of the Code	1
SECTION 1.06.	Definitions.....	1
CHAPTER 2.	CEMETERY OPERATIONS	4
SECTION 2.01.	CTUIR Managed Cemeteries.....	4
SECTION 2.02.	Cemetery Coordinator.....	4
SECTION 2.03.	Public Works Department.....	6
SECTION 2.04.	Cemetery Trust Fund	6
SECTION 2.05.	Cemetery Protection, Surveys and Research	6
SECTION 2.06.	Roads and Motorized Vehicles	6
SECTION 2.07.	Livestock.....	6
SECTION 2.08.	Interments	6
SECTION 2.09.	Disinterments	7
SECTION 2.10.	Cremations and Cremains	7
SECTION 2.11.	Disposition of Infant Remains	8
SECTION 2.12.	Fencing and Weed Eradication	8
SECTION 2.13.	Marker Placement and Repair.....	8
CHAPTER 3.	ESTABLISHMENT AND EXPANSION OF CEMETERIES.....	8
SECTION 3.01.	Zoning	8
SECTION 3.02.	Conditional Use Permit.....	8
SECTION 3.03.	Types of Cemeteries	9
CHAPTER 4.	MANAGEMENT OF CEMETERIES	10
SECTION 4.01.	Cemeteries Management Team.....	10
SECTION 4.02.	Cemetery Maintenance and Expansion.....	10
SECTION 4.03.	Mapping Exterior Boundaries.....	11
SECTION 4.04.	Mapping and Recording Burials	11
SECTION 4.05.	Plotting New Graves	12
SECTION 4.06.	Planning Cemetery Access and Expansion.....	12
CHAPTER 5.	DISPUTES	12
SECTION 5.01.	Mediation	12
SECTION 5.02.	Appeals	12
SECTION 5.03.	Sovereign Immunity.....	12
APPENDIX A.	LEGISLATIVE HISTORY	
APPENDIX B.	FORMS	
APPENDIX C.	<i>Policy and Procedures Manual for the Repatriation of Ancestral Human Remains and Funerary Objects</i>	

CEMETERIES CODE

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. TITLE

This code shall be known as the Cemeteries Code of the Confederated Tribes of the Umatilla Indian Reservation or the CTUIR Cemeteries Code.

SECTION 1.02. DECLARATION OF NEED

The Board of Trustees declares that there is a need to ensure orderly use of land as 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 Board of Trustees 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 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 CTUIR-managed cemeteries on or near 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 Archaeological and Historic Preservation Act, the American Indian Religious Freedom Act, the Archaeological Resources Protection 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.
 - 2. “Allotment” means, for purposes of this Code, an individual parcel of land which is held in trust by the United States Government for either an individual Indian or the Tribal government (also known as tribal tracts).

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

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 Confederated Tribes of the Umatilla Indian Reservation.
5. “Botanist” means any person employed by the CTUIR 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 Coordinator Office” or “CC Office” is the office with the authority to manage on-Reservation cemeteries, assist Tribal members and coordinate cemetery needs.
8. “Cemetery Coordinator” or “Coordinator” is the person employed by the CTUIR 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 Oregon State and other state documentation.
9. “Cemeteries Management Team” means a team of Tribal employees and others, delegated by the Executive Director of the CTUIR, 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. “Committee” or “CRC” means the Cultural Resources Committee of the Confederated Tribes of the Umatilla Indian Reservation.
13. “Conditional Use” means a use permitted or denied at the discretion of the Natural Resources Commission based on findings of fact as required by the Land Development Code.
14. “Confederated Tribes of the Umatilla Indian Reservation”, “Tribes”, or “CTUIR” means the government of the Umatilla Indian Reservation established pursuant to the Constitution and Bylaws of the Confederated Tribes of the Umatilla Indian Reservation.
15. “Cremation” is the act of reducing the remains of a deceased individual to ashes or “cremains” through burning the body.
16. “Cultural Resources Protection Program” or “CRPP” means the program within the Department of Natural Resources that protects, manages, and preserves archaeological and cultural resources.
17. “Enrollment Office” means the office under the Administration Department of the Confederated Tribes of the Umatilla Indian Reservation, which houses the Tribal Member Benefits Coordinator, who is responsible for administering funeral assistance.
18. “Final Disposition Authorization” means the form routinely used to permit burials and filed with state vital statistics departments.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

19. “Funeral Assistance Benefits” means the benefits to Tribal members, Tribal employees or others to assist with funeral expenses and costs, supplies, planning, grave markers, etc., as outlined in the CTUIR Funeral Assistance Code.
20. “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.
21. “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.
22. “Human remains” or “remains” mean the body of a deceased person in any stage of decomposition or after cremation.
23. “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.
24. “Interment” or “burial” means the disposition of human remains by cremation, inurnment, entombment, or burial beneath the ground.
25. “Land Acquisition Program” means the program in the CTUIR Department of Economic and Community Development that purchases land on the Reservation for Tribal interest.
26. “Land Development Code” means the CTUIR planning or zoning code.
27. “Native Plant Nursery” means any CTUIR program or enterprise that grows and sells native plants.
28. “Natural Resources Commission” or “NRC” means the commission 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.
29. “Non-member” means anyone who is not an enrolled member of the Confederated Tribes of the Umatilla Indian Reservation.
30. “On-reservation” means lands within the external boundaries of the Umatilla Indian Reservation and subject to the jurisdiction of the Confederated Tribes of the Umatilla Indian Reservation.
31. “Oregon Commission on Historic Cemeteries” or “OCHC” means the Oregon State commission in charge of assisting owners and managers of historic cemeteries with restoration, conservation, and other cemetery issues.
32. “Oregon Department of Human Services Center for Health Statistics” means the Oregon State department charged with receiving, maintaining, and archiving vital records.
33. “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.
34. “Parking area” means a durable, permanently surfaced and marked area, excluding paved area necessary for access, for the parking of a motor vehicle.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

35. "Reservation" means the Umatilla Indian Reservation.
36. "Public Works" means the Tribal department that provides grave opening and closing, cemetery maintenance, fencing, and marker placement for CTUIR owned cemeteries.
37. "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.
38. "Sexton" means the person employed as the CTUIR Cemeteries Coordinator and authorized to sign the Final Disposition Authorization prior to interment of a body in an on-reservation cemetery.
39. "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.
40. "Tribal member" means anyone enrolled as a member of the CTUIR.
41. "Tribal Planning Office" or "Planning Office" means the Tribal office responsible for implementing the Land Development Code.
42. "Tribal Veterans Service Office" means the Tribal office responsible for oversight of services to Tribal veterans.
43. "Tribe or Tribes or Tribal" means the Cayuse, Umatilla and Walla Walla tribes and/or the Confederated Tribes of the Umatilla Indian Reservation, a federally recognized Indian tribe.

CHAPTER 2. CEMETERY OPERATIONS

SECTION 2.01. CTUIR MANAGED CEMETERIES

- A. The CTUIR manages four cemeteries within the boundaries of or near the Reservation: Agency, Old Agency, Homli, and Pond (McKay). The CTUIR will be expanding these cemeteries to provide space for future Tribal member interments. Also, the CTUIR will be working with the BIA and allotment owners to acquire the land of and/or provide legal access to other cemeteries on allotments in the near future.
- B. The CTUIR allow the interment of CTUIR members and their immediate family only in CTUIR 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 CTUIR 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.

SECTION 2.02. CEMETERY COORDINATOR

- A. The Cemetery Coordinator is employed by the CTUIR and:
 1. administers and enforces this Code and related policies and procedures for cemetery management on the Reservation;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

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 Oregon Department of Human Services Center for Health Statistics within 10 days, and maintaining a second copy on file at the Coordinator's office;
 4. maintains, archives, and updates all Reservation cemetery records for: Tribal members and non-members interred on-Reservation, as well as Tribal members interred off Reservation, and CTUIR cemetery plat maps;
 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 CTUIR-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 Coordinator in locating the graves of U.S. veterans in cemeteries within the Reservation, and directs families of veterans to the Tribal Veterans' Services Office;
 9. seeks funding for CTUIR 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 and the Public Works Department.
- B. The Coordinator is not responsible for funeral arrangements. These are the sole responsibility of the family or other responsible party. The Coordinator will assist the Public Works Department and a decedent's family in identifying a suitable location for a new interment in a CTUIR 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 Coordinator 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 Coordinator will coordinate marking the intended plot space with Public Works.
- C. Public Works will monitor all ground disturbances and notify the Coordinator if a problem occurs with the plot. If any cultural feature is found during grave digging all construction will stop at that location, the Coordinator will be notified and a decision will be made between Public Works and the Coordinator as to where to begin digging again. The Coordinator 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 Coordinator will mark it with a temporary marker, and assign an IGSS file and number.

SECTION 2.03. PUBLIC WORKS DEPARTMENT

The Public Works Department shall maintain CTUIR-managed cemeteries, provide grave opening and closing, marker placement, weed eradication, fencing operations, 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 Coordinator. The Coordinator will notify the CRPP. If this area needs to be left undisturbed, an alternate site, given by the family of the decedent and marked by the Coordinator, will be opened.

SECTION 2.04. CEMETERY TRUST FUND

Since the CTUIR does not charge for cemetery care and maintenance, interments, marker placement, etc., the Coordinator 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 CTUIR cemeteries, for any purpose besides family history, without a written permit from the Coordinator and approval from the CRC.
- B. The Coordinator 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 Coordinator 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 CTUIR-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 Coordinator 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 CTUIR-managed cemeteries. Animals are not permitted to be buried within CTUIR-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 CTUIR recognizes and respects the individual's and family's right to be interred as they wish. Because of this right, the CTUIR 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 CTUIR-owned cemetery, nor is there a restriction on what type of memorial stone to use.

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 Coordinator's Office by the person with the right to control disposition, and the Coordinator shall notify the CRPP and CRC. State administrative and court orders and orders of non-CTUIR tribal courts will not be recognized without a valid order from the Umatilla 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 commissioned in the State of Oregon.
- C. If the applicant seeks disinterment without a valid court order, the Coordinator 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 Coordinator to the CRC, for approval. Upon approval or as the result of a valid court order, the Coordinator will assist the applicant in implementation of any disinterment plans. Upon disinterment of the remains or cremains, the Coordinator 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 Oregon Department of Human Services Center for Health Statistics within 10 days of reinterment.
- D. The CTUIR does not fund disinterment of remains or cremains. All costs involved in filing the disinterment permit, exhuming, transport, and reinterment 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 CTUIR recognizes the right of an individual and that person's family to do what they feel is right for them. Although the CTUIR does not prohibit cremated

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 CTUIR-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 Coordinator 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 CTUIR-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 CTUIR-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 CTUIR-owned cemetery may be divided to include infant remains.

SECTION 2.12. FENCING AND WEED ERADICATION

- A. The Coordinator will work with the Public Works Department and the BIA on prioritizing fencing needs for the cemeteries. If needed, the Public Works Department will request additional funds for cemetery maintenance from the Board of Trustees.
- B. The Coordinator will work with any available Tribal botanists, any existing CTUIR 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 NRC, CRC, and the Board of Trustees. Grant funds may need to be solicited to fund the project.
- C. The Coordinator 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 Board of Trustees.

SECTION 2.13. MARKER PLACEMENT AND REPAIR

The Coordinator 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 OCHC; the cost for this training and supplies can be funded through OCHC 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

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 Coordinator.

- B. All new cemeteries, expansion of existing cemeteries and conversion of cemeteries, listed in Section 3.03 below, need to be approved by the BIA (if on trust property), Tribal Planning Office, THPO, NRC, and CRC.
- C. The Coordinator, 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 sixteen known cemeteries within the external boundaries of the Umatilla Indian Reservation, and other yet unknown burials. These cemeteries fall under different ownership categories and types:
 - 1. Owned and managed by the CTUIR (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. Two cemeteries within the Reservation are owned by religious organizations: St. Andrews Mission Catholic Cemetery and Tutuilla Mission Presbyterian Cemetery. Both cemeteries are historic and in need of expansion. The religious organizations have full responsibility over any interment within their cemeteries. The CTUIR will assist as requested in the maintenance and management of these cemeteries.
- C. Tribal Member Allotment Cemeteries. There are six cemeteries on Tribal member allotments: Picard Family, Quaempts Family; Red Elk, Spino Family, Minthorn, and Upper McKay (Jones 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 CTUIR. If the allotment owner(s) are unable to care for their cemetery or require assistance to obtain access, the allotment owners may petition the CTUIR to purchase the cemetery and to include the cemetery as CTUIR-managed subject to this Code.
- D. Privately-owned Cemeteries On-Reservation.
 - 1. There are three privately-owned and managed cemeteries on the CTUIR that are mostly family interments: Fowler Family; Stewart Family (Hamlin Property), Hackney/Reed Family. The Fowler Family and Stewart Family cemeteries are surrounded by land owned by the CTUIR. 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 Hackney/Reed Family cemetery is on private land.
 - 2. There are no CTUIR 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

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 CTUIR 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 Cultural Resources Protection Program/Tribal Historic Preservation Office (CRPP), (541) 276-3447 and the Umatilla Tribal Police Department (UTPD), (541)278-0550.
 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 CRPP, or as otherwise authorized in writing by the Cultural Resources Committee or the CTUIR 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 Umatilla County, the BIA, or any CTUIR commission 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 CTUIR Executive Director may appoint a Cemeteries Management Team to address issues for all of the cemeteries under CTUIR 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 CTUIR, and others. The Coordinator will work with this team. The Coordinator 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 similar tasks, including, but not limited to:
1. The Coordinator identifying and mapping the external boundaries of each cemetery;
 2. The Coordinator identifying and recording all existing graves, markers, and features within the cemeteries and creating a searchable database of this information;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

3. The Coordinator, with the assistance of the CRPP, identifying through oral histories the location of unknown and unmarked graves;
4. The Coordinator, 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 Coordinator and Public Works plotting open grave areas for future use;
6. The Coordinator, with the assistance of Land Acquisition, negotiating and, with the assistance of Public Works, constructing access roads to and within cemeteries;
7. The Coordinator, 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 Coordinator 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 CTUIR-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 Coordinator shall record the boundaries with the CTUIR 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 Coordinator 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 Coordinator 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 Coordinator 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 CTUIR.
- D. The Coordinator may use mortuary information to help identify unmarked graves or graves with damaged or unreadable markers, as well as information gained from discussions with

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

Tribal Elders and family members. The Coordinator shall give unidentified graves a number and create an IGSS file for each one.

- E. As funding allows, the Coordinator 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 CTUIR will develop a plan for automobile accessibility to each CTUIR 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 CTUIR will attempt to facilitate access to CTUIR-managed cemeteries for families whenever possible.
- B. Planning for vehicular access to cemeteries and expansion areas, and preparation of areas for expansion of CTUIR managed cemeteries will be conducted by the Coordinator 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 Coordinator over matters under the Coordinator'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 Coordinator's supervisor or the Executive Director.

SECTION 5.02. APPEALS

All appeals of final administrative decisions made by the Coordinator, 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 CTUIR or its officers or employees..

APPENDIX A

LEGISLATIVE HISTORY

LEGISLATIVE HISTORY

The Board of Trustees enacted the Cemeteries Code of the Confederated Tribes of the Umatilla Indian Reservation in Resolution 10-078 (September 13, 2010). The Cemeteries Code has not been amended.

APPENDIX B

FORMS

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 10-078 (September 13, 2010)*

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 Confederated
Tribes of the Umatilla 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: _____