

MARRIAGES

CHAPTER 700 - MARRIAGES

Section 700.01 - Applicability

(a) This chapter applies to all marriages, performed on the Reservation or Trust lands of the St. Croix Chippewa Indians of Wisconsin, where one or both of the parties to the marriage is a member of the Tribe.

(b) A marriage properly performed pursuant to the laws of the State of Wisconsin, on the Reservation or Trust lands of the St. Croix Chippewa Indians of Wisconsin, where one or both of the parties to the marriage is a member of the Tribe, shall be recognized as valid.

(c) In any marriage in which one of the parties to the marriage is a non-member of the Tribe, the application for a marriage license pursuant to this chapter shall constitute the consent of the non-member to the jurisdiction of the Tribe to issue such license and to prescribe the procedures for marriage under this chapter.

Section 700.02 - Who may marry

(a) Any unmarried adult male and any unmarried adult female, each eighteen years of age or older, may marry each other, except as provided in paragraph (c).

(b) Any unmarried minor sixteen years of age but not yet eighteen years of age may marry with the written consent of both parents, if both parents are alive and married to each other; or with the written consent of the parent or parents having legal custody of the minor, if the parents are not married to each other; or with the written consent of the adult or adults having custody or guardianship, if neither parent has custody or guardianship. The consent must be given under oath before the clerk of court, a notary public, or other officer authorized to administer oaths, and must be filed with the clerk of court at the time of application for a marriage license.

(c) The following marriages are prohibited and invalid:

- (1) Where either party is lawfully married to another living spouse.
- (2) Between ancestors and descendants of every degree.
- (3) Between brothers and sisters, aunts and nephews, uncles and nieces, and between first cousins; whether the relationship is of the half or whole blood and legitimate or illegitimate.

(4) Where either party has been a party to a divorce in any court and less than six months has passed since the granting of the judgment of divorce.

(5) Where either party has such want of understanding that he or she is incapable of assenting to marriage.

Section 700.03 - Marriage license

(a) Unless it appears that a marriage will be invalid under this chapter, the clerk of court shall issue a marriage license upon the following:

(1) Both parties shall sign the application for marriage license.

(2) In the case of a party sixteen years of age but not yet eighteen years of age, consent as required under sec. 700.02(b) shall be submitted.

(3) The application shall be completed in full.

(4) Documentary proof of identification and membership in the Tribe shall be presented to the clerk of court.

(5) If a party is under the age of thirty years, proof of age shall be presented to the clerk of court.

(6) The parties shall swear or affirm to the application before the clerk of court.

(7) The marriage license fee of \$ 50 shall be paid to the clerk of court.

(b) The marriage license shall authorize the marriage ceremony to be performed on the Reservation or Trust lands of the Tribe at any time within thirty days of the issuance of the license. The officiating person shall determine that the parties presenting themselves to be married are the parties named in the marriage license. The issuance of the marriage license does not remove any legal impediments to the marriage which otherwise exist.

Sec. 700.04 - Marriage certificate

The marriage certificate shall contain such items as the Tribal Council and the Wisconsin Department of Health and Family Services from time to time prescribe. The officiant shall obtain such information and such signatures as are required and in the manner prescribed by the form of the certificate, and shall return the certificate to the clerk of court within three days after the date of the marriage.

Sec. 700.05 - Solemnization of marriage

- (a) A marriage may be solemnized by any of the following officiants:
 - (1) Any ordained member of the clergy.
 - (2) Any spiritual leader recognized as such by the community.
 - (3) Any tribal judge, judge of any federal or state court of record, or any family court commissioner or court commissioner appointed under Wisconsin law.
 - (4) The two parties themselves, by mutual declarations, in accordance with the customs, rules, and regulations of any religious society, denomination, or sect, to which either of them belongs.
- (b) Marriage may be validly solemnized and contracted only after a marriage license has been issued, and the parties have made mutual declarations of their intent to be joined in marriage and to take each other as husband and wife before an officiant as provided in paragraph (a) and before two additional adult, competent witnesses.
- (c) Lack of authority or jurisdiction of the officiant shall not void or render voidable any marriage if it is otherwise valid and is consummated with the full belief by either party that that marriage is valid.
- (d) Immaterial irregularities in the issuance or the form of the marriage license application or marriage license or the incompetency of the witnesses, or the expiration of the license shall not void or render voidable the marriage if it is otherwise valid and is consummated with the full belief by either party that that marriage is valid.

Sec. 700.05 - Recording of marriages; copies of certificates

The clerk of court shall, upon receipt, file the original marriage certificate with the Enrollment office, which is hereby designated the tribal Marriage Registrar, and shall forward a copy to the Wisconsin Department of Health and Family Services Bureau of Vital Statistics. The clerk of court shall, upon receipt, file the spiritual leader certificate as provided in sec. 700.06(a), with the Marriage Registrar. The Marriage Registrar shall maintain an open file of all marriage certificates, and shall provide copies and certified copies upon request and upon payment of such copy and certification fees as it may from time to time establish.

(Note: The state will not accept for filing marriage certificates, such as the spiritual leader certificate referred to in sec. 700.06(a), that do not conform to the state format. This may cause future problems in establishing claims for social security and other benefits.)

Sec. 700.06 - Traditional Indian marriages

(a) A marriage conducted by a tribal spiritual leader without a license as provided by this chapter shall be considered valid if within one week of the solemnization of the marriage the spiritual leader files with the clerk of court a certificate attesting to the marriage, and signed by the spiritual leader, the parties to the marriage, and two competent witnesses.

(b) All marriages consummated whether according to state law or tribal custom before the effective date of this chapter are declared valid, subject to annulment under applicable law, but hereafter all marriages shall conform to this chapter.

Sec. 700.07 - Unlawful marriages void

All marriages hereafter contracted in violation of this chapter shall be void and subject to annulment by action in tribal court, except as provided in sections 700.05(c) and (d).

Sec. 700.08 - Penalties

The following shall be subject to a civil forfeiture not less than \$50 nor more than \$1,000:

(a) Any person making any false statement in connection with an application for marriage license or who misrepresents his or her identity in connection with such an application.

(b) Any person who, not being authorized to solemnize a marriage, undertakes to do so.

(c) Any person who solemnizes a marriage between parties who do not possess a current and apparently lawful marriage license.

(d) Any person, having solemnized a marriage, who fails to file the marriage certificate.

(e) Any person who violates any other provision of this chapter.

Sec. 700.09 - Effective date

This chapter shall be effective from the date of the resolution approving it.

St. Croix Tribal Council

TRIBAL COUNCIL

P.O. Box 287

Hertel, Wisconsin 54845

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Maple Plain Community

RESOLUTION NO. 08-05-97-1

Leo Butler
Tribal Administrator
Sand Lake Community

Beverly Benjamin
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Danbury Community

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DATE ACCOUNTING CLERK

Richard Benjamin

COMPTROLLER

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PLANNING DEPARTMENT

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JUDICIAL BRANCH

Louis Bearheart
Gloria Merrill
Judges

Julie Nelson Pettis
Court Clerk

TRIBAL ATTORNEY

Howard J. Bichler
George Morrison

ENTERPRISES

St. Croix Casino
Turtle Lake
The Wall Casino
Pewaw Corners Cafe
Little Turtle Hertel Express
Sand Lake Bingo
SCHA
St. Croix Ojibwa Construction Co.

WHEREAS, The regulation of members of the Tribe is an aspect of sovereignty possessed by the St. Croix Chippewa Indians of Wisconsin;

AND WHEREAS, the Tribal Council wishes to provide for marriages to be performed pursuant to tribal law;

NOW, THEREFORE, BE IT RESOLVED that the attached ordinance, Chapter 700, Marriages, is enacted as law, effective upon the date of passage of this resolution.

Certification

I, the undersigned as Secretary of the St. Croix Tribal Council, do hereby certify that the Council is composed of five (5) members of whom 3 were present, constituting a quorum, at a meeting duly called, convened and held this 5th day of August, 1997, and that the foregoing resolution was adopted at said meeting by an affirmative vote of 3 for and 0 against, and 0 members abstaining from the vote, and that said resolution has not been rescinded or amended in any way.

Beverly Benjamin
Beverly Benjamin, Secretary/Treasurer
ST. CROIX TRIBAL COUNCIL