

Saginaw Chippewa Tribal Law

Ordinance No. 34

**Residential Leasehold Trust Land
Public Nuisance Ordinance**

Enacted by Resolution 18-136 approved on July 31, 2018

Ordinance No. 34
Residential Leasehold Trust Land Public Nuisance Ordinance

Table of Contents

Section 1.	Short Title.	1
Section 2.	Interpretation.	1
Section 3.	Definitions.	1
	(a) Public Nuisance.	1
	(b) Lessee.	1
	(c) Lessor.	1
	(d) Tribal Land.	1
	(e) Residential Leasehold Trust Land.	1
	(f) Respondent.	2
	(g) Vegetation.	2
	(h) Accepted Vegetation.	2
	(i) Abandoned Home.	2
	(j) Junk Motor Vehicle.	2
	(k) Junk.	2
Section 4.	Prohibited Conduct	2
	(a) Grass and Weed Growth Prohibited.	2
	(b) Blight/Property Decay.	2
	(c) Abandoned Homes.	3
Section 5.	Duties of Planning and Housing Departments.	3
Section 6.	Penalties for Violation	4
Section 7.	Violations, Jurisdiction.	5
	a. Notice.	3
	b. Standards Regarding Exclusion Proceedings.	3
	c. Hearings Procedure.	4
	d. Enforcement.	5
Section 8.	Severability of Provisions.	6
Section 9.	Sovereign Immunity.	6
Section 10.	Effective Date.	6
	Legislative History.	6

Ordinance No. 34
Residential Leasehold Trust Land Public Nuisance Ordinance

BE IT ENACTED, by the Tribal Council of the Saginaw Chippewa Indian Tribe of Michigan as follows:

STATEMENT OF PURPOSE: An Ordinance to regulate public nuisances upon residential leasehold trust land.

BE IT ENACTED, by the Saginaw Chippewa Indian Tribe of Michigan as follows:

Section 1. Short Title

This Ordinance may be cited as the Residential Leasehold Trust Land Public Nuisance Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

Section 2. Interpretation

This Ordinance shall be deemed as an exercise of the general police power of the Saginaw Chippewa Tribe of Michigan for the protection of the public welfare, health, peace and morals of the Saginaw Chippewa Indian Tribe of Michigan and all provisions of this Ordinance will be liberally construed for the accomplishment of this purpose.

Section 3. Definitions

- (a) Public Nuisance: an unauthorized condition that is obnoxious and injurious causing undue annoyance to the public at large, or a condition which endangers public safety.
- (b) Lessee: a member of the Saginaw Chippewa Indian Tribe of Michigan who currently is a party to a residential lease on SCIT trust land.
- (c) Lessor: The Saginaw Chippewa Indian Tribe of Michigan (SCIT).
- (d) Tribal Land: the area over which the SCIT exercises criminal or civil regulatory jurisdiction, and includes the following:
 - (1) all lands within the exterior boundaries of the SCIT reservation; and
 - (2) all lands held in trust for the SCIT by the United States; and
 - (3) all lands owned by the SCIT which are 'dependent Indian communities' under 18 U.S.C 1151.
- (e) Residential Leasehold Trust Land: Property that is held in trust for the SCIT and is subject to a residential lease between the SCIT and a qualified member of the SCIT.

- (f) Respondent: a Lessee who is the subject of a citation issued pursuant to this Ordinance.
- (g) Vegetation: Shall include any vegetation other than those defined under "accepted vegetation."
- (h) Accepted Vegetation: Shall mean the agricultural crops, cultivated trees, cultivated shrubs, flowers and other decorative ornamental plants under cultivation, wildflowers, vegetation on woodlands or wetlands, cultivated meadows and meadows, and vegetation growing in roadside ditches.
- (i) Abandoned Home: A residential structure that is not occupied for more than 6 months. Abandoned homes does not mean property that is unoccupied for less than 6 months while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant.
- (j) Junk Motor Vehicle: Any motor vehicle which is not licensed with either the State of Michigan or with the SCIT for use upon the highways of the state for a period in excess of 90 days and also, whether so licensed or not, any motor vehicle which is inoperative for any reason in excess of 90 days.
- (k) Junk: Includes parts of machinery or motor vehicles, construction machinery or parts thereof, unused stoves, refrigerators, freezers or other appliances store in the open, metal or any other material or other castoff material of any kind whether or not same could be put to any reasonable use.

Section 4. Prohibited Conduct

- (a) Grass and Weed growth prohibited

(1) It shall be the duty of every Lessee holding a residential lease on SCIT trust land not to permit any growth of grass, weeds or other vegetation to a height greater than 10 inches on the average; nor any accumulation of dead weeds, grass or brush.

(2) It shall be the duty of the Lessee to cut and remove or destroy by lawful means all such grass and weeds as often as may be necessary to comply with the provisions of Section 4(a)(1).

(3) If the Lessee, upon notification by the Land Title/Realty Specialist, fails to comply with the provisions of Section 4 (a) the Lessee shall be subject to the penalties for violation as set out in Section 6 of this Ordinance.

- (b) Blight/Property Decay

(1) It is hereby determined that the following structures, uses and activities are causes of blight or are blighting factors which, if allowed to exist, will result in blighted neighborhoods and will harm the economic structure upon which the tribal membership depends. No Lessee shall maintain or permit to be maintained any of the following blights or blighting conditions upon any residential leasehold trust land:

(a) The existence of any junk motor vehicle, except in a completely enclosed area, is expressly prohibited.

(b) The storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such manner as not to create an annoyance for a period not to exceed 30 days.

(c) Any structure or part of structure which, because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended.

(c) Abandoned Homes

(1) The purpose of this section is to help protect the health, safety and welfare of the tribal community by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of residential dwelling.

(2) A Lessee shall not leave their residence unoccupied for a period of longer than 180 days. A Lessee found to have abandoned his/her home will be subject to the penalties set out in Section 6 of this Ordinance.

(3) Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. The conditions include, but are not limited to: overgrown and/or dead vegetation; accumulation of newspapers, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris. Further evidence of vacancy will be provided by confirmation from the SCIT Tribal Clerk that the Lessee no longer shows the property as his/her residential address.

Section 5. Duties of Planning and Housing Departments

The Land Title/Realty Specialist, or the Housing Manager's designee and the Tribal Code Compliance Officer shall have the authority to do the following:

- (a) Implement this Ordinance.
- (b) Enforce the provisions and carry out the duties provided by this Ordinance.
- (c) Develop or promulgate such rules and procedures as are necessary to implement this Ordinance. The Housing Department may promulgate rules and procedures that are approved in writing by the Tribal Administrator or the Assistant Tribal Administrator and approved by Tribal Council. Promulgated rules and procedures will become valid and binding laws of the Tribe upon approval of the Tribal Council and shall be filed with the Tribal Clerk.
- (d) Undertake any other activity that is reasonable and necessary to implement this Ordinance.

The Tribal Code Compliance Officer or a Planning Department Appointee shall have the authority to collect and be the repository of all fees or fines issued pursuant to this Ordinance.

Section 6. Penalties for Violation

- (a) This Ordinance shall be administered by the Housing Manager's appointee and enforced by the Tribal Code Compliance Officer.
- (b) Enforcement of this Ordinance may be sought by filing of a written complaint to the Housing Manager's appointee by an employee of SCIT or by a Tribal Member.
- (c) The Housing Manager's appointee will review all properly filed complaints, and upon verification of said complaint shall issue a written warning notice. The written warning notice shall be delivered to the Lessee via certified mail as well as US first-class mail.
- (d) The Lessee(s) shall have 3 weeks from date of written warning notice to comply with this Ordinance. Failure to do so will result in the complaint being turned over to the Tribal Code Compliance Officer for further enforcement.
- (e) Upon receipt of a valid complaint, the Tribal Code Compliance Officer may, in its discretion, issue a citation to the Lessee(s) who are the subject of the complaint.
- (f) A citation shall be made on a form approved by the Planning Department and shall provide, at a minimum, the nature of the violation and whatever action necessary by the Lessee to abate or correct the violation.

- (g) Citations shall be served by personal service or by certified mail and shall be deemed served upon receipt. Personal service shall be effective upon receipt by the Lessee or by posting such citation in a conspicuous location at the residence of the Lessee.
- (h) Lessees shall have 1 week to comply with a citation issued absent a showing of good cause to the Saginaw Chippewa Tribe Planning Department.
- (i) A citation shall include a civil assessment against the Lessee, said amount will vary dependent upon the violation.

(1) Violations to Section 4(a) Grass and Weed Growth Prohibited shall be:

- First Violation: \$50 + cost to remedy the violation
- Second Violation: \$100.00 + cost to remedy the violation
- Third or additional Violations: \$250.00 + cost to remedy violation

Violations will be incurred on the calendar year and will re-set on January 1st of each year.

(2) Violations to Section 4(b) Blight/Property Decay shall be:

\$200.00 citation + cost to remedy the violation

(3) Violations to Section 4(c) Abandoned Homes

- \$500.00: Vacant 6 months, but less than 2 years
- \$1,000.00: Vacant 2 years, but less than 3 years
- \$1,500.00: Vacant 3 years, but less than 5 years
- \$2,000.00: Vacant at least 5 years, plus an additional \$500.00 for each year in excess of 5 years.

Section 7. Violations, Jurisdiction

- (a) The Saginaw Chippewa Tribal Court shall have exclusive jurisdiction over all causes of action under this Ordinance.
- (b) The Tribal Code Compliance Officer or other designee of the Planning Department approved by Council, through the Tribal Legal Department, shall have the authority to bring actions in the name of the Saginaw Chippewa Indian Tribe in the Saginaw Chippewa Tribal Court for the enforcement of the provisions of this Ordinance. The Tribal Code Compliance Officer or other designee of the Planning Department through the Tribal Legal Department may seek any appropriate civil remedy in

such actions. The Saginaw Chippewa Tribal Court shall have the authority to enforce the Ordinance and the requirements of any citation issued pursuant to this Ordinance.

- (c) A lawsuit filed pursuant to this section shall comply with procedures of the Saginaw Chippewa Indian Tribe Civil Code.
- (d) There shall be no private cause of action or third party action to enforce the provisions of this Ordinance or its implementing regulations.

Section 8. Severability of Provisions

If any provision under this Ordinance is later found to be unconstitutional under the Tribe's Constitution or the United States Constitution, it shall be considered null and void, but the rest of the provisions in this Ordinance shall remain in effect.

Section 9. Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or its departments or any subordinate government unit or official except to the extent such immunity is explicitly waived in such Ordinance or by resolution of the Tribal Council. No enforcement action taken by the Housing Department, Planning Department or Council designee shall be construed as a waiver of sovereign immunity. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity with regard to any counterclaim or similar assertion relating to an enforcement action of the the Housing Department or Planning Department.

Section 10. Effective Date

This Ordinance shall become effective immediately.

Legislative History

Enacted by Resolution 18-136 approved on July 31, 2018.