TOWN OF ANGELICA

ORDINANCE 7-12-21

Shawano County, Wisconsin

CEMETERY AND BURIAL SITE ORDINANCE

The Town of Angelica Board of Supervisors, Shawano County, Wisconsin, ordains as follows:

Section 1. Title:
The title of this Ordinance is the Town of Angelica Town Cemetery Ordinance.

Section 2. Purpose and Intent:
The purpose of this Ordinance is to regulate the construction, management, operation, and platting of cemeteries, the burial of human corpses, and other cemetery uses and activities in the town.

Section 3. Authorization:
The Town Board of the Town of Angelica has the specific authority under s. 157.50 (2), Wis stats., and general authority under its village powers under s. 60.22, Wis stats., to adopt this ordinance.

Section 4. Adoption of Ordinance:
This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the construction, management, operation, and platting of cemeteries and the burial of human corpses and other cemetery uses and activities in the town, including cemeteries that are not owned, operated, or controlled directly by the town.

Section 5. Definitions:
For the purposes of this article, the following words and phrases shall have the meanings given herein, unless different meanings are clearly indicated by the context.

BURIAL: means entombment, inurnment, or interment and "bury" means to entomb, inurn, or inter.
CEMETERY: means any location of burial of human remains in the town.
HUMAN REMAINS: means the body of a deceased individual that is in any stage of decomposition or has been cremated.
LOT: means a single grave lot platted in accordance with Section 7, whether or not occupied by a grave.
OUTER BURIAL CONTAINER: means any container that is placed or intended to be placed into the burial excavation of a grave and into which a casket is placed or intended to be place at the time of burial.
SEXTON: means a town employee or independent contractor employed or retained by the town board to administer, repair, maintain, manage, and operate a town cemetery or any part of the operations of a town cemetery consistent with this ordinance, In the event no person is specifically designated as "sexton" by the town board, "sexton" means any person or committee designated to act administratively and to manage, operate, maintain, and provide care for the town cemetery or any part of the operations or of any town cemetery pursuant to this ordinance.
TOWN: means the Town of Angelica, Shawano, County, Wisconsin.
TOWN BOARD: means the board of supervisors for the Town of Angelica, Shawano, County, Wisconsin, and includes designees of the board authorized to act for the board.
TOWN CEMETERY: means a municipal cemetery owned, operated, and maintained by the Town of Angelica, Shawano, County, Wisconsin, under s. 157.50 Wis. Stats., that is located with the town.
TOWN CHAIR: means the chairperson of the Town of Angelica, Shawano County, Wisconsin
TOWN CLERK: means the clerk of the Town of Angelica, Shawano County, Wisconsin
TOWN TREASURER: means the treasurer of the Town of Angelica, Shawano County, Wisconsin
WIS STATS: means the Wisconsin Statues, including successor provisions to cited statutes.

Section 6. Subdivision and Numbering of the Ordinance:

This ordinance is divided into sections designated by uppercase numbers. Sections may be divided into subsection designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase numbers. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

Section 7. Statement of Policy:

Every town cemetery is owned, operated, directly controlled, and maintained by the town for the benefit of all citizens. Person of all denominations of all religions, sexes, creeds, and races, shall be allowed to be buried in a town cemetery. This ordinance, adopted pursuant to s. 157.50 (2), Wis. Stats., governs the construction, management, administration, platting, maintenance, and operation of any town cemetery and of any new cemetery or expanded cemetery of any other type in the town, including cemeteries operated by associations, religious orders and societies, and privately owned, controlled, operated and maintained cemeteries.

Section 8. New Burials, Cemeteries, and Cemetery Lots and new or Expanded Cemetery Operations:

A. Platting. Before any new block of any existing town cemetery or any other new or expanded cemetery in the town is opened for the sale of cemetery lots for burial of human remains after the effective date of this ordinance, the town board or the sexton for a town cemetery and any person or agent for any other cemetery in the town that is subject to s. 157.065, Wis. Stats., shall cause the blocks and lots to be platted and recorded in the Office of the Resister of Deeds for Shawano County, Wisconsin, in accordance with s. 157.065, Wis. Stats.

B. Single grave section. The town board or the sexton shall designate, for any town cemetery, certain lots as a single grave section, and the lots within each grave section shall be platted and sold as single-grave lots. Unused portions of grave section repossessed under chapter 157, Wis. Stats., for nonpayment of assessments for care shall likewise be designated and sold as single-grave lots.

C. Purchase of new lands. The town board or the sexton shall not purchase any land for cemetery purposes without approval of the electors of the town at a regular or special town meeting.

Section 9. Purchase of Lots in Town Cemetery:

A. Price of lots. The town board shall from time to time by resolution fix a price on all lots to be sold for burials in any town cemetery.

B. Sales of lots. **1.** Persons, or their authorized agents, desiring to purchase a lot in any town cemetery for burial are referred to the town board, town clerk, or sexton. The town board, town clerk, or sexton shall have available suitable plats showing size and price of lots, and any other information that may be required, and render assistance to those desiring to make lot purchases. The town board, town clerk, or sexton shall issue a lot order for a selected lot to the prospective purchaser, or his or her agent, who shall present the order at the office of the town clerk, Upon receipt of proper payment to the town treasurer, the town chair and town clerk shall issue a cemetery lot deed to the lot in the form prescribed by the town attorney. The original deed from the town and the records of the cemetery kept by the town clerk or other designee of the town board are the only evidence of title to any lot. The deed shall be signed by the town clerk and town chair or other person so designated by the town board and sealed and acknowledged so as to entitle the purchaser to record the deed with the register of Deeds for Shawano County, Wisconsin. **2**. Persons conveying any cemetery lot in any town cemetery shall comply with s. 157.08, Wis, stats., and this ordinance.

Section 10. Ownership Rights of Burial in Town Cemetery:

A. Ownership Conditions.

1. The owner of a town cemetery lot, or his or her authorized agent, shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of this ordinance or any town cemetery bylaws and regulations.

2. Upon full payment by any person of the purchase price of a town cemetery lot, the town clerk and town chair shall issue a cemetery lot deed, under seal as provided in Section 9, subsection B., and a copy of the deed shall be filed in the records of the town as evidence of ownership of the lot. Lots for which lot deeds have been issued by the town may not be subdivided except by consent in writing of the town board.

3. All repossessed vacant lots in any town cemetery when resold are subject to the same fees and charges as other unoccupied lots.

B. Burial.

1. In this subsection, "relative" means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law or sister-in-law, uncle or aunt, and nephew or niece.

2. Any lot owner at any town cemetery acquires the lot solely for the purpose of burial of the owner at the time of the owner's death, and if the lot is owned jointly by spouses, either spouse is entitled to burial at that lot. The lot owner may grant written permission, which must be notarized and filed with the town clerk, for the burial of specific persons other than the owner and the owner's spouse. If more than one person has an ownership interest in the lot, the written consent of all persons having an ownership interest in the lot is required to permit the burial of a person other than an owner or owner's spouse.

3. Unless otherwise directed in a writing filed with the town clerk by the lot owner under paragraph 2, the town board or the sexton shall permit the burial of persons at any town cemetery lot at the request of any interested person upon proof of eligibility for burial at the cemetery lot as follows:

a. The lot owner, and surviving spouse of the lot owner, have the first right to burial or to direct the right of burial.

b. When there is no surviving spouse, the devisees or heirs of the owner may by agreement in writing of all the heirs or devisees, determine who shall have the right of burial or direction for burial, which agreement shall be filed with the town clerk.

c. If no agreement under subdivision b. is filed, the town board or the sexton may determine use, giving preference to relatives in the order listed in paragraph 1.

C. Ownership Rights. All burial rights in the cemetery lots located at any town cemetery and purchased from the town shall occupy the same position as real estate at the death of the owner. Only persons whose names appear on the cemetery records of the town will be recognized as owners or part owners of lots. Lot owners may not allow burials to be made in their lots for any remuneration or financial consideration. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will or final judgment in the decedent's estate must be delivered to the town clerk before the town will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the town cemetery lots and devise the lots to one person.

D. Resale. Lot owners may not resell or transfer lots or parts of lots in any town cemetery except as follows:

1. Reconveyance of lots or parts of lots may be made only upon written application filed with and approved by the town clerk. The application shall be executed by the owner of the lots, or, if the owner is deceased, by the legal heirs. The application shall state the lot and block number. Upon approval by the town clerk, the owner of the lot shall execute a deed in the same form as an original deed from the town under Section 9, subsection B so as to entitle the purchaser to record the deed with the Register of Deeds for Shawano County, Wisconsin.

2. The town clerk shall enter in the record kept for that purpose copies of all deeds of transfer and reconveyance of cemetery lots. No deed reconveyance may be received and filed by the town clerk until a fee of $15 has been paid therefor.

3. The fee shall be deposited into the general town municipal fund.

E. Reburial.

1. In this subsection, "reburial" means to disentomb, disinurn, or disinter human remains that are buried in a cemetery and reentomb, reinurn, or reinter human remains in another grave, mausoleum space, or other place used or intended to be used for the burial of human remains that is located in the same cemetery.

2. Any reburial of any person buried in a town cemetery, or in any other cemetery in the town, shall comply with the provisions of s. 157.112, Wis. Stats. Any person seeking reburial shall seek approval from the appropriate cemetery authority. A county authorization for disinterment and reinterment shall be required prior to any reburial under s. 69.18 (4), Wis. Stats.

F. Use of repossessed lots. Whenever possible, lots repossessed under chapter 157, Wis. Stats., in any town cemetery will be resold and used for burials before new areas of the cemetery are used or platted.

Section 11. Care of Lots at the Town Cemetery:

A. Perpetual care fund for town cemetery. In order to assure reliable means for permanent care of town cemeteries, a perpetual care fund is created for town cemeteries. Income from this fund shall provide all or partial

maintenance costs of the town cemeteries. All lots sold in any town cemetery shall be charged a perpetual care fee included in the price of the lot and each grave shall be provided with perpetual care services under subsection B. A record of the perpetual care fund shall be kept in the office of the town clerk. The fund may be increased by gifts, bequests, a portion of memorial charges, and other service revenues. Gifts shall be received, kept, and maintained pursuant to s. 157.11 (8) and (9), Wis. Stats.

B. Perpetual care. The town assumes to use the net annual income received from the investments of the perpetual care fund under subsection A in furnishing perpetual care of graves in town cemeteries. Perpetual care is limited to the maintenance of lawn, leaf disposal, filling sunken graves, raising markers, and caring for avenues, alleys, fences, buildings, and grounds in general. Expenditures of income from the perpetual care fund shall be made at the discretion of the town board or the sexton. The town shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the proceeds of each lot sale shall be added to the perpetual care fund of the town and the proceeds from the fund used by the town as provided in this subsection. Nothing in this ordinance shall be construed as obligating the town as to any alleged existing contract as to perpetual care. The town board shall operate and maintain the town cemetery to provide proper and decent care of town cemeteries and graves, and it may employ a sexton, staff, and any independent contractor necessary to provide such care.

C. Cost of care fixed. The town board shall annually fix, as required under s. 157.11 (5). Wis. Stats., a sum necessary for the proper and decent care of graves and unoccupied cemetery lots and improvement of any town cemetery to be paid from the following sources as determined by the town board:

1. Payments from Shawano County to the town for veteran's graves under subsection F and s. 45.84, Wis. Stats.

2. Income of the perpetual care fund.

3. Assessments made under subsection D.

4. A tax levied by the town board.

D. Assessments against unoccupied lots. The town board may annually assess upon town cemetery lots not occupied by graves amounts not to exceed the amounts reasonably required for actual and necessary costs for care of cemetery lots and care and improvement of the cemetery pursuant to s. 157.11 (7), Wis. Stats. Notice of the assessment, along with a copy of s. 157.11, Wis. Stats., shall be mailed to each owner or person having charge of a cemetery lot, at the owner's or person's last-known post office address, directing payment to the cemetery authority within 30 days and specifying that such assessments are a personal liability of the owner or person. When uniform care of a cemetery lot has been given for two (2) consecutive years or more for which assessments are unpaid, after notice as provided in s. 157.11 (2), Wis. Stats., the right to burial is forfeited until delinquent assessments are paid. When uniform care has been given for five (5) consecutive years or more and the assessments are unpaid, upon like notice, title to all unoccupied parts of the cemetery lot shall pass to the town, as cemetery authority, and may be sold, the payment of principal to be deposited into the perpetual care fund. Before depositing the payment of principal into the perpetual care fund, the cemetery authority may retain an amount necessary to cover the cemetery authority's administrative and other expenses related to the sale, but the amount retained may not exceed 50% of the proceeds.

E. General improvements. The town board shall direct and administer all improvements and maintenance with the cemetery before and after any burials. The town board shall be responsible for determining proper and decent care of the cemetery. All graves shall be sodded and mowed, when determined necessary by the town board or the sexton. The grade of the cemetery lots shall be determined by the town board or the sexton. The corners of all cemetery lots shall, when purchased, if possible, be permanently marked by the town board or the sexton. Resodding of existing graves or following disinterment will be done when determined necessary by the town board or the sexton.

F. Veterans graves.

1. Pursuant to s. 45.85, Wis. Stats., the town board shall at all times see that the graves and tombstones of all veterans, including women's auxiliary organizations created by act of Congress, who shall at any time have served in any branch of the armed forces of the United States, and of the spouses or surviving spouses of all those veterans, receive proper and decent care, and may employ all necessary assistance to carry out this section.

2. Pursuant to s. 45.85 (1) Wis. Stats., the expense of the care of the graves and tombstones shall be borne by the county where the graves are located, except where suitable care is otherwise provided and the amount of expense charged the county for the care may not exceed the charge made for the care of other graves, in the same cemetery. The town board shall report to the Shawano County clerk, on or before September 1, of each year, the locations of the graves cared for by the town board under s. 45.85, Wis. Stats., together with the names of the deceased and the amount claimed for care of the graves for the fiscal year from the previous July 1 to June 30.

Section 12. Privileges and Restriction in Town Cemeteries:

A. Bylaws and regulations. The town board may adopt bylaws and regulations for the management and care of any town cemetery and may enforce those bylaws and regulations under s. 157.11 (2) Wis. Stats. The town board may require any person owning or controlling a cemetery lot to do anything necessary to comply with the bylaws or regulations by giving reasonable personal notice in writing if the person is a resident of the state, otherwise by publishing a class 3 notice under chapter 985, Wis. Stats., in the county. If the person fails to comply within 20 days thereafter, the town board may cause the action required to be done and recover the expense from the person required to take the action. The town board may also impose a forfeiture not exceeding $10 for violation of the bylaws or regulations posted in 3 conspicuous places in the cemetery, recoverable under chapter 778, Wis. Stats.

B. Mounds prohibited. No person may raise the level of the earth over any grave in a town cemetery above the general level of the cemetery lot.

C. Limitations on structure and urns.

1. In this subsection "urn" means a vessel for the display of flowers or plants that is attached to a lot or is of such weight, as determined by the town board or sexton, that it cannot be readily moved from its placement on the lot. "Urn" does not include a vessel containing cremated human remains properly inured on the lot.

2. No structures, hedges, fences, railings, embankments, depressions, or other enclosures of any kind are permitted on or around lots in any town cemetery. Wooden boxes, wire containers, glass jars, bottles, toys, cans, memorials, memorabilia, personal items, and other similar objects may not be placed on lots without written approval of the town board or the sexton, and if so placed may be removed by the town board or the sexton without oral or written notice. Urns are not permitted at any town cemetery on lots sold after passage of this ordinance. Urns existing in town cemeteries prior to the passage of this ordinance shall be removed by the town or the sexton as they become unsightly or deteriorated and shall not be replaced. Before an urn is destroyed or discarded, the last owner of record of the lot on which it is located shall be notified by registered or certified mail with return receipt requested by the town clerk that the urn has been removed from the lot and will be destroyed or discarded unless the owner of urn claims it within 30 days after mailing of such letter.

D. Landscaping. All landscaping, mowing, and general care of lots, and other work, construction or maintenance in the town cemetery shall be performed by the town by its officers, employees, independent contractors, or agents, including any sexton, unless otherwise provided in writing by the town board.

E. Access to lots; opening and closing of burial places. The town reserves the right of its officers, employees, contractors, and agents, including the sexton and the town board, necessary to the performance of normal town cemetery operations to enter upon or cross over any lot in any town cemetery in the performance of any duties or work necessary under this ordinance. The town board, by its officers, employees, contractors, and agents, including the sexton, has the sole right to the opening and closing of burial places used or to be used for burial of human remains in the town cemetery, unless or ordered by a court of record to open or close such places.

F. No assumption of liability for damages. The town, and its officers, employees, contactors, and agents, including the sexton and the town board, assume no liability for damages to property or person, or for physical or mental suffering arising out of the performance of its normal operations related to the construction, management, operations, maintenance, care and platting of any town cemetery, including care of the cemetery, any lot and the graves, or for loss by vandalism or other acts beyond its reasonable control at a town cemetery.

G. Altering physical conditions. The town board reserves the right to alter, change, or close alleys, roadways, walkways, water mains, and other physical public properties at any town cemetery.

H. Enforcement of regulations and ordinance. The town board may appoint, with citation issuance and service powers, any employee or agent of the town, including the sexton, to administer and enforce its town cemetery bylaws and regulations and this ordinance.

Section 13. Rules for Visitors to Town Cemeteries:

A. Visiting hours. Every town cemetery shall be open to visitors at all times between sunrise to one-half hour after the official sunset. Permission to enter any town cemetery at any other time must be obtained from the town board or the sexton.

B. Children. Children under 16 years of age shall not enter upon any town cemetery except when accompanied by parents or guardians, unless this requirement is waived in writing by the town board or the sexton.

C. Refreshments. Persons, including picnic parties, with food, refreshments, or alcoholic beverages are prohibited with any town cemetery.

D. Dogs and other animals. Dogs are permitted in any town cemetery only when confined in a vehicle or if the dog is a service animal accompanying a person with sight-impairment or other disability while in the town cemetery. All other pets or domestic animals are prohibited without written consent of the town board or the sexton, except a service animal other than a dog accompanying a person with sight-impairment or other disability while in the town cemetery.

E. Firearms. Firearms are prohibited in any town cemetery except in conjunction with military funerals or specific memorial events permitted by the town board, the sexton, or other designees of the town board. At all other times, firearms, bows and arrows, slingshots, and other like articles are prohibited.

F. Visitors.

1. Visitors to town cemeteries are required to use existing walkways and roadways whenever possible.

2. Except as provided in Section 15, no person in any town cemetery may do any of the following:

a. Pick or cut flowers, either wild or cultivated.

b. Injure any shrub, tree, or plant.

c. Mar or deface any monument, stone, or structure.

3. No person, except the owner of the cemetery lot, a person with the cemetery lot owner's consent, or a person with written consent of the town board or the sexton who is engaged in official cemetery management and care duties for the town, may do any of the following in a town cemetery:

a. Damage any grave or lot.

b. Remove, deface, mark, or damage in any manner any cemetery markers, headstones, monuments, fences, or structures.

c. Remove, damage, or destroy any vases, flower pots, urns, or other objects that have been placed on any cemetery lot.

d. Move or remove any cemetery equipment without the written consent of the town board or the sexton.

e. Remove or damage any town cemetery property not included within subdivision a. to d.

4. **a.** In this paragraph, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation, or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, bowling, billiard, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe pitching, birdwatching, motorcycling, operating an all-terrain vehicle, ballooning, curling, throwing darts, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, participation in water sports, weight and fitness training, sightseeing, rock climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and any other sport, game, or education activity.

b. No person may loiter, cause a public nuisance, or engage in any sport or other recreational activity on any town cemetery property without written consent of the town board or the sexton.

G. Vehicles.

1. Motor vehicles traveling within any town cemetery may not exceed 10 miles per hour. No motor vehicle, except authorized maintenance vehicles for the town, shall be driven except on roadways designated for that purpose, nor shall any motor vehicles be driven in a reckless manner in the cemetery.

2. No person may ride, operate, or make use of any of the following vehicles in any cemetery unless the vehicles are present in conjunction with the town cemetery business or are authorized in writing by the town board or the sexton:

a. Snowmobiles.

b. Go-carts.

c. All-terrain vehicles.

d. Mopeds.

e. Motor bicycles.

f. Motorcycles.

g. Play vehicles and other amusement vehicles, including any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.

3. No person, without the written consent of the town board, or the sexton, may park or abandon any motor vehicle in any town cemetery on any grassy or seeded area or upon any other location except a designated parking area; nor shall any person park or abandon a motor vehicle on any town cemetery property for any purpose except engaging in official cemetery business. Any motor vehicle parked more than 24 hours, without written consent

of the town board or the sexton, shall be declared abandoned by the town board and may be towed or removed, or caused to be towed or removed, by the town board or the sexton.

H. Protection of cemetery property. No person without written consent of the town board or the sexton may do any of the following:

1. Trap, hunt, kill, injure, or disturb, or attempt to trap, hunt, kill, or disturb any animal, bird, or waterfowl, wild or domestic.

2. Climb any tree.

3. Break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or damage any tree, shrub, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property with any town cemetery, except as otherwise provided in this ordinance.

I. Littering, soliciting, and advertising prohibited. No person may litter, dump, or deposit any rubbish, refuse, earth, or other material, including any placement of advertising, in any town cemetery without the written consent of the town board or the sexton.

J. Sound devices. No person may operate or play any amplifying system or sound device in any town cemetery without the written consent of the town board or the sexton.

K. Authorized notices. No person may post, paste, fasten, paint, or attach any placard, bill, notice, sign, or advertising matter upon any structure, tree, or other natural object in any town cemetery, except with the written consent, or at the direction, of the town board or the sexton. No person shall remove, deface, or damage in any manner any sign or notice posted in any town cemetery by or at the direction of the town board or sexton unless approved by the town board or the sexton.

L. Working in cemetery. All contractors or other person having work in the town cemetery shall notify the town clerk or the sexton prior to commencement of the work. All contractors or others doing work in the town cemetery are responsible for the cost for any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages or loss by the town board, pay that sum to the town board.

Section 14. Town Cemetery Burials:

A. Daylight Burials. Burials at any town cemetery shall be made only during daylight hours, unless with written approval of the town board or the sexton.

B. Outer containers. All burials and reinterments, at any town cemetery, shall be made in a permanent outer burial container not constructed of wood.

C. Grave digging. All graves at a town cemetery and any other cemetery in the town to be used for burials shall be opened and dug at no cost or expense to the town, but shall be under the direction of the town board or the sexton. The minimum depth of graves shall be established by the town board from time to time and all graves shall be dug in strict conformity with the town board policy then in effect. The town board or the sexton may charge the full cost for any grave digging and opening service provided by the town at any town cemetery, including the fees for the sexton or other designee of the town board, for staking the plot, if the town board has authorized the town of its officers, employees, contractors, or agents, including the sexton or other designees, to provide grave staking, grave openings or digging services. The town board or the sexton may also establish charges for snowplowing and seasonal additional access costs to the lot owner incurred by the town to provide for burial or disinterment services. Arrangements for any disinterment or burial services, including payments due to the town, shall be made with the town clerk, the sexton, or other person designated by the town board at least 48 hours in advance of the service. The time for any disinterment or burial service shall be arranged so that the grave shall be properly filled and all surplus earth removed before 4:30 p.m. on the day of the disinterment or burial service, unless that requirement is specifically waived in writing by the town clerk or the sexton.

D. Burial permit. No burial in the town cemetery shall be permitted until a legal burial permit has been issued by the town clerk or the sexton.

E. Maintenance of flowers, wreaths, and other personal items at burial sites. There shall be no responsibility on the part of the town, its officers, employees, contractors, or agents, including the sexton or other designees of the town board, for the protection and maintenance of flowers, wreaths, plants, emblems, urns, family or personal items, memorials or similar items used or placed at any town cemetery in conjunction with funeral or burials, including disinterments, or memorial events. The town board shall place or cause to have placed a notice of disclaimer of responsibility consistent with this subsection at vehicle access location to each town cemetery.

F. Number of graves per lot. No lot at any town cemetery may be used for the burial of more than one body except in the following circumstances:

1. Two remains from cremation shall be allowed in one lot with one headstone or two flat markers to be placed only in line with other stones.

2. One full body and one remains from cremation shall be allowed in one lot, with one headstone or two flat markers to be place only in line with other stones.

3. All cremation remains shall be placed in a permanent outer burial container not constructed of wood.

G. Seasonal burial; duty to bury. The town board or the sexton shall provide for cemetery services and burials at any town cemetery during each season, including winter, whenever practicable, in compliance with s. 157.114, Wis. Stats. However, the town has no duty to bury, remove any human remains, or allow the burial or removal of any human remains, unless those requesting burial or disinterment are or will be in full compliance with this ordinance, state law, and any bylaws, and regulation established by the town board. The town board may, at its discretion, charge additional costs to the person requesting burial in order to provide safe and timely access to and from the grave or burial site during burial services.

Section 15. Town Cemetery Monuments and Markers:

A. Setting grave markers.

1. Grave markers, monuments, and foundations at any town cemetery may be set only after the person desiring to set the marker, monument, or foundations obtains a permit therefor from the office of the town clerk or the sexton. Grave markers, monuments, and foundations at any town cemetery may be set by monument company employees or agents or other persons authorized by the lot owners, but not the town board or the sexton. Except as otherwise provided in this ordinance, under no conditions will the town board or the sexton construct monument or marker bases or erect monuments or markers on bases.

2. All markers and monuments must have a cement foundation. The construction of a foundation shall be of such size and design as will provide ample insurance against settlement or injury to the monument or marker as determined by the town board or the sexton. The top of the foundation shall be constructed flush with the ground line. Whenever possible, all markers shall be set with, at minimum, a 5-inch margin from the outer edges of the foundation.

3. The setting of grave markers, monuments, and foundations, and the transportation of all tools and related materials, within any town cemetery is subject to the supervision and control of the town board or the sexton. Unless special arrangements are made in writing with the town board or the sexton, such work shall be conducted between the hours of 8 a.m. and 5 p.m., Mondays through Fridays, except national holidays. Truck operation is not permitted within any town cemetery when, in the opinion of the town board or the sexton, the truck operation may cause damage to the driveways or other town cemetery property. Except with written permission of the town board or sexton, all work in the setting of grave markers, monuments, and foundations shall be completed promptly and debris removed immediately.

B. Limitations. All of the following apply to monuments and markers in town cemeteries:

1. The town board or the sexton may refuse permission to erect any monument, marker, or foundation not in keeping with the good appearance of the grounds at a town cemetery. The size of any monument or stonework must be provided to the town board or the sexton and approved before any work related to any monument, marker or foundation will be permitted on a lot in a town cemetery.

2. Only one monument or marker shall be allowed per lot.

3. No foundation marker or monument may be larger than the width of the lot or group of lots purchased. All monuments and foundations must be set in line with other monuments so far as possible as directed by the town board or sexton. Government service monuments or markers shall be surface mounted or attached to the monument or marker. No monument or marker may be more than five (5) feet in height.

4. Temporary markers shall be removed or replaced with a permanent marker with one year of burial.

5. A preneed marker may be placed on a lot or group of lots before burial.

6. No material other than granite, marble, or standard bronze may be used for outside and above-ground portions of any marker or monument.

7. Within one year after burial, a marker or monument identifying the burial shall be placed at the grave site. The town board or the sexton may require, at minimum, prior to burial, a deposit of $1,000 payable to the town treasurer to insure timely placement of a proper marker or monument. The Town reserves the right to place a marker or monument and to assess any surviving owners of the lot for costs of the marker or monument placed and the costs of installation of such marker or monument.

C. Removal of monuments. A marker or monument, once placed at a town cemetery on its foundation, may not be removed, except by written permission of the town board or the sexton.

D. Payment. Any lot at a town cemetery must be paid in full to the town treasurer before markers, monuments, and foundations are set and before any cemetery deed conveyance. All outstanding charges due the town must be paid prior to burial.

Section 16. Town Cemetery Vaults and Mausoleums:

Construction of vaults and mausoleums in any town cemetery is prohibited unless approved in writing by the town board.

Section 17. Trees, Shrubs, and Flowers at Town Cemetery:

A. Tree and shrub planting. The planting at any town cemetery of trees and shrubs on newly purchased lots or parts of lots is prohibited except by written consent of the town board or the sexton.

B. Large tree removal. Lot owners may, with the written consent of the town board or the sexton, remove large trees on or adjacent to cemetery lots in any town cemetery that hinder the full usage of the lots. The expense of the tree and stump removal shall be paid for by the lot owners.

C. Fresh flowers and flags. All flower baskets at grave or lot sites at a town cemetery shall be moved by October 15 of each year. Fresh cut flowers may be used in any town cemetery at any time. Containers for cut flowers are to be of a type that is level with the ground surface and not holding water when not in use; or of the type to be disposed of when flowers are removed. All flags placed on graves for Memorial Day shall be removed by the day following Flag Day of that year.

D. Potted plants. Potted plants at any town cemetery may be set on lots, without disturbing the sod, if removed within five (5) days after being set. If a potted plant is not removed within five (5) days of being set on the lot, the potted plant may be picked up and destroyed by the town board or the sexton of the town or removed and preserved for planting within the town cemetery.

E. Artificial flower decorations; baskets. Artificial flower decorations are prohibited in any town cemetery unless in a vase or pot and when so used will be treated as potted plants. Unfilled or unsightly baskets will be removed from the lot by the town board or the sexton.

F. Flower beds. Individual flower beds or growing plants other than trees or shrubs are permitted at any town cemetery but must be of a reasonable size as determined by the town board or the sexton. In case of doubt, the town board or the sexton of the town should be consulted. Flower beds or growing plans that are not maintained, become unsightly or undesirable, or are not of reasonable size as determined by the town board or the sexton will be removed by the town board or the sexton.

G. Plant or flower removal. Plants or flowers planted in a town cemetery may not be taken up or removed by any person, nor cuttings removed therefrom, without written consent from the town board or the sexton, except that plants in flower beds and growing plants authorized under subsection F may be removed or cut by the person who planted the flower bed or growing plant.

H. Vine, wreath, and memorial removals. Vines that interfere with the proper care of lots or graves or injure or damage the grass will be removed from any town cemetery by the town board or the sexton when found objectionable. No real or artificial wreaths, temporary or permanent, nor memorial or personal memorabilia items will be allowed on lots or graves without consent of the town board or sexton.

Section 18. Miscellaneous:

A. Neglected lots. It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire town cemetery. The town board or the sexton may notify, or attempt to notify, in writing a lot owner that any lot, or monument or marker thereon, is being neglected and that failure to comply with this ordinance and town cemetery bylaws and regulations regarding proper care and management, or failure to correct a neglected lot, may be cause for imposition of forfeitures under s. 157.11 (2), Wis. Stats.

B. Schedule of payments. A schedule of the fees and charges for any town cemetery, as established by the town board by resolution shall be on file in the office of the town clerk. The town board may by resolution change the schedule from time to time without advance notice to conform the fees and charges to current economic conditions.

C. Fee payment location. All fees and charges for any town cemetery in the current schedule of fees and charges adopted under subsection B are payable to the town treasurer at the office of the town clerk, where receipts will be issued for the amounts paid.

D. Sexton. The town board, by resolution, may designate, retain, or employ a person as sexton or may designate any other person or committee to act administratively and to manage, operate, maintain, and provide care for the town cemetery or any part of the operations or of any town cemetery pursuant to this ordinance. The sexton may be a town employee or may, with proper insurance and indemnification protection for the town, its officers, employees, and agents, be an independent contractor or agent retained under written contract for a fixed time of years. The town board, consistent with this ordinance, shall designate the authority, responsibility, and duties to the sexton by written resolution. The town board shall be responsible for proper supervision of the sexton.

E. Amendment of ordinance. The town board reserves the right to amend this ordinance to conform with newly developed cemetery practices or any other legal purpose that the town board deems necessary and appropriate. Before this ordinance is amended, a public hearing shall be held on the proposed amendment before the town board. Notice of the public hearing shall be published in a local newspaper at least ten (10) days prior to the hearing.

Section 19. Penalties:

A. Citation. The town board may establish a citation ordinance for enforcement of violations of this ordinance and for any bylaws or regulations.

B. Penalties. Any person who violates any provision of this ordinance or any bylaws or regulations shall, upon conviction, be fined and shall forfeit for any bylaw or regulation violation under Section 12, subsection A, of this ordinance and s. 157.11 (2), Wis. Stats., not more than $10, and for a violation of this ordinance, not less than $100 nor more than $500 for each offense, together with the costs of prosecution. Each day a violation exists or continues constitutes a separate offence under this ordinance. The town board may withhold the issuance of any town licenses, authorities, grants, or permits and any addition cemetery lot purchases and permits for burial or disinterment until the violation has been abated and all penalties and costs satisfied.

C. Abatement.

1. In lieu of or in addition to any other penalty for a violation of this ordinance, if the violation consists of a physical condition, the town board may issue a written notice to the person responsible for the violation, if known, requiring the person responsible to [abate or remove] the violation within 30 days of receipt of the notice. Service of notice shall be by personal service or registered mail with return receipt requested.

2. If the person responsible for the violation of this ordinance in unknown or the person responsible has not [abated or removed] the violation within 30 days of receipt of the notice described in paragraph 1., the sexton, or some other person designated by the town board, may immediately abate or remove the violation in a manner approved by the town board. The cost of the abatement or removal may be recovered from the person responsible for the violation.

D. Injunctive relief. In lieu of or in addition to any other penalty for a violation of this ordinance the town board may seek to enjoin any continuing violation of this ordinance as provide in Ch. 813, Wis. Stats.

Section 20. Effective Date: This ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance, as required under s. 60.80, Wis. Stats.

Adopted this 12th day of July, 2021