

## Chapter 149

### CEMETERY

**[HISTORY: Adopted by the Village Board of the Village of Hustisford 3-28-1994 as Title 8, Ch. 4 and § 11-3-5 of the 1994 Code. Amendments noted where applicable.]**

#### **§ 149-1. Purpose; management.**

- A. Purpose. The Village cemetery is owned and maintained by the Village for the benefit of all citizens. Definite rules and regulations must be set up by the Village Board to ensure proper maintenance and beauty and to prevent abuse and destruction. The following rules and regulations are set forth in this chapter to govern the cemetery. The Village reserves the right to amend or change any part of this chapter to conform to newly developed cemetery practices.
- B. Management. The Village cemetery shall be subject to the control of the Village Board, and the Board may, from time to time, acquire lands for cemetery purposes as the same are required, contiguous to said described premises, in the manner provided by law. The Board shall have full power and authority to exercise general supervision over said cemetery and shall regulate the manner of burial and shall designate who shall be buried in the public grounds.<sup>1</sup>

#### **§ 149-2. Platting of new cemetery lots.**

Before any new block of a municipal cemetery is opened for the sale of lots, the Village Board shall cause it to be platted and recorded in the office of the Register of Deeds.

#### **§ 149-3. Purchase of lots.**

- A. Price of lots. The Village Board shall fix a price on all lots to be sold in the municipal cemetery. See the Village Fee Schedule.<sup>2</sup>
- B. Sale of lots. Persons or their agents desiring to purchase a lot in the cemetery shall be referred to the Village Clerk-Treasurer or to his duly authorized agent. The Village Clerk-Treasurer will have available suitable plats showing the size and price of lots and such other information as may be required and will render assistance to those desiring to make lot purchases. Upon having made a lot selection, the Village Clerk-Treasurer will issue a deed to the lot in the form prescribed by the Village Attorney. The deed shall be signed by the Village Clerk-Treasurer and sealed with the Corporate Seal and acknowledged so as to entitle it to

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1. Editor's Note: Original § 8-4-1(c), Sexton, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). All references in this chapter to "Sexton" were amended to read "Village Clerk-Treasurer" or "caretaker" at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: See Ch. A330, Fees.

be recorded. The purchaser may record this deed with the Dodge County Register of Deeds.<sup>3</sup>

**§ 149-4. Ownership rights of interment.**

- A. The lot owner or his 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 the cemetery rules and regulations.
- B. Upon full payment of the purchase price of a lot, the Village Clerk-Treasurer will issue a cemetery deed, and the deed will be recorded in the records of the Village as evidence of ownership of the lot. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery), nor can they be mortgaged.
- C. The lot owner shall have acquired the lot for interment of himself and members of his family. However, the lot owner may grant written permission (which must be notarized and placed on file with the Village Clerk-Treasurer) for the burial of other persons.
- D. Unless otherwise directed in writing and filed with the Village Clerk-Treasurer and the lot owner, his devisees, or his heirs, the cemetery will permit the interment of members of his family at the request of any interested person upon proof of eligibility for burial as follows:
  - (1) The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.
  - (2) When there is no surviving spouse, the devisees or heirs of the owner may, by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the Village Clerk-Treasurer.
  - (3) In the event the owner, his devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner shall have the right to interment in order of their need.
- E. All burial rights in cemetery lots purchased from the Village occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the Village will be recognized as owners or part owners of lots. 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 must be delivered to the Village Clerk-Treasurer before the Village 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 cemetery lots and devise the same to one person.
- F. Lot owners may not resell or transfer their lots or parts of lots except as outlined

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

below:

- (1) The Village Clerk-Treasurer shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the Village Clerk-Treasurer until a fee as prescribed in the Village Fee Schedule has been paid therefor.<sup>4</sup> Said fee shall go into the general cemetery fund.
- (2) Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the Village Clerk-Treasurer. Such application shall be executed by the owner(s) of the lots or, if the owner(s) is deceased, by the legal heirs. The application shall state the lot and block numbers.

**§ 149-5. Care of lots.**

- A. In order to assure reliable means for permanent care, a perpetual care fund is created. Income from this fund will provide partial maintenance costs of the cemetery. The fund may also be increased by gifts, bequests, a portion of memorial charges and other service revenues.
- B. "Perpetual care" shall be construed to mean the obligation which the Village assumes to use the net annual income received from the investments of the fund in furnishing such care as is furnished similarly endowed lots in the cemetery. Such perpetual care shall be limited to maintenance of the lawn, leaf disposal, the filling of sunken graves and raising of markers and the care of avenues, alleys, fences, buildings and grounds in general. It is understood that such expenditures shall be made at the discretion of the Village. The Village shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the same shall be added to the perpetual care fund of the Village and the proceeds therefrom used by the Village in the manner as heretofore provided. Nothing herein shall be construed as obligating the Village to any alleged existing contract as to perpetual care.

**§ 149-6. Privileges and restrictions.**<sup>5</sup>

- A. No mound shall be raised upon any grave above the general level of the lot.
- B. No hedges, fences or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, bottles, toys, cans and other such objects may not be placed on lots and, if so placed, will be removed by the Village without notice. Flower and decorative urns are not permitted on lots sold after the passage of this chapter unless on an extension. A twelve- to fifteen-inch extension is recommended for all markers or monuments installed after adoption of this chapter. Existing urns shall be removed by the Village as they become unsightly or deteriorated and shall not be replaced.

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4. Editor's Note: See Ch. A330, Fees.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

However, before any such urn is destroyed or discarded, the last owner of record of the lot shall be notified by registered or certified mail with return receipt requested that such urn has been removed from the grave and will be destroyed unless the owner thereof claims the same within 30 days after the mailing of such letter.

- C. Each block in the cemetery will, prior to sale, be suitably marked by the Village with metal, brick or concrete.
- D. A limited amount of artificial flowers displayed in the cemetery must be in containers and placed on the extension. Any artificial flowers not in containers will be removed from the cemetery by the caretaker.
- E. Wreaths on wire stands must also be placed at the head of the lot near the monument or marker.
- F. All landscaping, care of lots and other work in the cemetery will be done by the Village, but it is desired that each lot owner feel free to consult with those in charge of the cemetery at all times. Their advice will be cheerfully given without charge and may be of much value to those contemplating the purchase of or improvements to cemetery lots. The Village shall retain the ownership of all aisles, including monument aisles.
- G. The Village reserves the right for its workmen and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.
- H. The Village, or its employees, assumes no liability for damages to property or of persons, for physical or mental suffering arising out of the performance of its, or their, normal operations, or for loss by vandalism or other acts beyond its, or their, reasonable control.
- I. The Village reserves the right to alter, use, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

**§ 149-7. Rules for visitors.** <sup>6</sup>

- A. The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and 1/2 hour after the official sunset. Permission to enter the cemetery at any other time must be obtained from the Village Clerk-Treasurer or the Village Board.
- B. Children under 16 years of age will be admitted only when accompanied by parents or guardians.
- C. Firearms will not be allowed in the cemetery except in conjunction with military funerals. At all other times, firearms, bows and arrows, slingshots and other like articles will not be allowed. Driving golf balls is prohibited.
- D. No vehicle shall be driven except on roads designated for that purpose, nor shall such be driven in a reckless manner.

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<sup>6</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- E. No riding of bicycles, motorbikes, motorcycles or other such vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business.

**§ 149-8. Interments and disinterments.**

A. Interments.

- (1) Interments will be made only during daylight hours.
- (2) All interments shall be made in a permanent outer container excluding the use of wood.
- (3) All graves shall be dug by the Village under the direction of the Village Clerk-Treasurer or his authorized agent. Depth of graves shall conform to the Wisconsin State Board of Health specifications. Seeding will be done by the Village.
- (4) No burial will be permitted until a legal burial transit permit has been presented to the Village Clerk-Treasurer. The interment of bodies of persons who have died of a contagious disease shall be in strict accordance with the rules of the State Board of Health.
- (5) There will be no responsibility on the part of the Village for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.
- (6) When definite information for locating a grave is not available 36 hours prior to grave preparation to meet the time requested for interment, the cemetery may exercise its best judgment in making a location order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location, and an additional charge will be made for any change requested.
- (7) The Village Clerk-Treasurer or his agent shall, whenever possible, be given 36 hours' notice to assure the opening and preparation of a grave prior to interment. Barring unforeseen or other untoward circumstances, such grave shall be opened and prepared in time for interment.
- (8) The interments of two bodies in one grave will not be allowed, except in the case of a mother and infant, twin children, or two children buried at the same time or in special circumstances with the approval of the Village Clerk-Treasurer or his agent. One body and one cremains will be permitted in one grave. Cremation urns made of plastic, glass, ceramic, wood, or porcelain must be buried in a vault. Urns made of bronze, stainless steel, or epoxy granite are strong enough and do not require a vault. Placement of cremated remains inside of a marker or monument shall not be allowed.
- (9) A maximum of two cremains may be buried in a single grave space. Only two markers will be allowed on the grave space of which one will be flush with the ground and of a size which meets the approval of the caretaker.

B. Disinterments.

- (1) Disinterments of bodies and cremains from graves in the cemetery will be made only by the Village in accordance with the requirements of the State Board of Health. Charges set by the Village for removal must be paid in advance.
- (2) Lot owners, or their heirs, desiring graves opened may secure the necessary disinterment permit from the state and deliver the same to the Village Clerk-Treasurer. All removals will be made by the Village under the supervision of a licensed embalmer.
- (3) For sanitary reasons, graves will not be reopened for inspection except for an official investigation.

**§ 149-9. Monuments and markers.**

- A. Grave markers and foundations will be set only by the monument company according to regulations specified by the Village. Monuments shall be no higher than 30 inches in height above concrete foundation. Except as herein otherwise provided, under no conditions will the Village construct monument or marker bases or erect monuments or markers on bases. The Village reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stonework. The top of the concrete foundation will be constructed flush with the ground line. All markers will be set with a five-inch margin, with 12 to 15 inches on at least one end.
- B. The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery grounds shall be subject to the supervision and control of the caretaker. Unless special arrangements are made with the caretaker, such work shall be conducted between the hours of 8:00 a.m. and 4:00 p.m., Mondays through Fridays, except on national holidays. Whenever possible, at least 24 hours' notice shall be given to the caretaker that said work is to take place. Heavy trucking will not be permitted within the cemetery when, in the opinion of the caretaker, such work might cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.
- C. The Village reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument and/or stonework must be given to the caretaker or his agent and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as is possible as directed by the caretaker or his assistant.
- D. Stonework or monument work, once placed on its foundation, shall not be removed, except by permission of the caretaker.
- E. The lot must be paid in full or other assurance given of payment before markers and monuments are set.
- F. Temporary markers must be removed or replaced with a permanent marker within

one year.

**§ 149-10. Vaults and mausoleums.**

The construction of vaults and mausoleums is prohibited.

**§ 149-11. Trees, shrubs and flowers.**

- A. The planting of trees and shrubs on newly purchased lots or parts of lots will not be permitted.
- B. Lot owners may remove, under the direction of the caretaker, large trees on grave sites that hinder the full usage of the grave site. The expense of the tree and stump removal will be paid for by the lot owners.
- C. Fresh cut flowers may be used anytime. Containers for cut flowers are to be of a type 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.
- D. Potted plants may be set on lots, without disturbing the sod, on special occasions, such as Memorial Day, birthday, anniversary, etc.<sup>7</sup>
- E. A limited number of artificial decorations may be permitted, provided that such decorations are in a vase or pot, and they shall be treated as potted plants. The caretaker reserves the right to remove unsightly or out-of-season decorations.<sup>8</sup>

**§ 149-12. Responsibility of lot owners; fees and charges; liability.**

- A. 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 cemetery.
- B. All fees and charges as outlined in the current schedule of fees and charges are payable at the office of the Village Clerk-Treasurer, where receipts will be issued for the amounts paid.
- C. A schedule of the fees and charges, as established by the Village Board, shall be on file in the office of the Village Clerk-Treasurer and caretaker. Such schedule may change from time to time without advance notice to conform to current economic conditions.
- D. The Village will take reasonable precautions to protect all private property, lots and/or grave owners' property in the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and especially from the acts of thieves, vandals and rioters and from all acts of Providence, including wind, tornadoes, hail, snow, rain and frost, whether the damage is indirect or proximate.

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 149-13. Cemetery regulations.**<sup>9</sup>

- A. Purpose and definition. In order to protect cemetery areas within the Village from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this section shall include all municipal cemetery property, grounds, equipment and structures.
- B. Authority to establish rules and regulations. The Village Board shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code. The Village shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the Village.
- C. Specific regulations.
  - (1) Disturbing cemetery property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property, except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the Village; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the caretaker's consent.
  - (2) Protection of cemetery property. No person shall trap in any cemetery without specific written authorization of the caretaker; nor shall any person kill, injure or disturb, or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code; nor shall any person climb any tree or break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flowerbed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnics, parties, or similar gatherings are permitted.
  - (3) Motor vehicles. Motor vehicles are restricted to the roads and drives and parking areas. All-terrain vehicles and snowmobiles are prohibited in cemeteries. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the caretaker's consent.

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<sup>9</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (4) Speed limit. No person shall operate any motorized vehicle in any cemetery in excess of 15 miles per hour unless otherwise posted.
- (5) Parking. No person, without the caretaker's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the caretaker at the vehicle owner's expense.
- (6) Littering. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the caretaker's consent.
- (7) Pets. Pets, including animals of any species, and horses are prohibited in any cemetery, except for seeing eye dogs.
- (8) Sound devices. No person shall operate or play any amplifying system or sound device in any cemetery without the caretaker's consent.
- (9) Authorized notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the caretaker. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (10) Loitering. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the caretaker's consent.
- (11) Alcoholic beverages. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Village unless the property is specifically named as being part of a licensed premises.
- (12) Play vehicles. No person shall operate or make use of a play vehicle upon any cemetery property without the caretaker's consent. As used in this section, "play vehicle" shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (13) Presence after hours. No person shall be present upon any cemetery property without the caretaker's consent during posted hours when the cemetery is not open to the public.