

ORDINANCE 2021-1A  
TOWN OF LIND  
CEMETERY ORDINANCE

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SECTION 1 – TITLE AND PURPOSE

The title of this Ordinance is the “Town of Lind Cemetery Ordinance”. The purpose of this Ordinance is to enhance the beauty, regulate the construction, manage the operation and platting of cemeteries and the burial of human corpses and other cemetery uses and activities in the Town of Lind, Waupaca County, Wisconsin.

SECTION 2 – AUTHORITY

The Town Board of the Town of Lind has the specific authority under sec. 157.50(2) Wis. Stats., and general authority under its village powers under sec. 60.22 Wis. Stats., to adopt this Ordinance.

SECTION 3 – ADOPTION OF ORDINANCE

The Town Board of the Town of Lind has, by adoption of this Ordinance, confirmed the statutory authority, powers and duties, noted in Chapters 60 and 157 Wis. Stats., and has established, pursuant to these Chapters and this Ordinance, those powers and duties of the Town Board of the Town of Lind to manage and operate certain cemeteries located in the Town of Lind.

SECTION 4 – DEFINITIONS

- A. “Cemetery” means any land, including any mausoleum on the land, that is used or intended to be used, exclusively for the burial of human remains.
  
- B. “Cemetery Official” means any person designated by the Town of Lind Board of Supervisors to oversee Town Cemetery operations.

- C. "Grave plot", "burial plot", or "funeral plot" means a piece of land that is used or intended to be used for an underground burial of human remains; other than a burial in an underground mausoleum space.
- D. "Cemetery lot" means a grave or two or more contiguous graves, and when used in reference to the sale, purchase, or ownership of a cemetery lot, includes the right to bury human remains in that cemetery lot.
- E. "Town Cemetery" means the municipal cemetery owned, and operated, and maintained by the Town of Lind, Waupaca County, Wisconsin, under sec 157.50 Wis. Stats., that is located within the Town.

#### SECTION 5 – POLICY STATEMENT

Every Town Cemetery is owned, operated, directly controlled and maintained by the Town of Lind for the benefit of all citizens. Persons of all denominations of all religions, sexes, creeds, and races shall be allowed to be buried in a Town Cemetery.

#### SECTION 6 – MANAGEMENT AND OPERATIONS

The Town Board of the Town of Lind, by this Ordinance, establishes that the management, control, operation and care of the cemetery known as the Town of Lind Cemetery shall be provided by the Town Board of the Town of Lind. The Town Board of the Town of Lind shall employ or retain persons to maintain the cemeteries designated herein as Town Cemeteries. The Town reserves the right to amend this Ordinance to conform to newly developed cemetery practices.

#### SECTION 7 – PLATTING OF NEW CEMETERY LOTS AND NEW OR EXPANDED CEMETERY OPERATIONS

- A. Platting. Before any new lot 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 Clerk for a Town Cemetery and any person or agent for any other cemetery in the Town that is subject to Sec. 157.065 Wis. Stats. shall cause the lots to be platted in accordance with Secs. 157.065 and 157.07 Wis. Stats.
- B. Single Grave Selection. The Town Board may designate, for the platting of any new Town Cemetery lots or expanded cemetery operations, certain lots as a single grave section and the lots within those sections shall be platted and sold as single-grave lots.
- C. Purchase or Expanded Cemeteries. The Town shall not purchase any land for cemetery purposes without approval of the electors of the Town at a regular or special Town meeting.
- D. New or Expanded Cemeteries. No person or designated agent of any cemetery may construct, manage, plat or operate any new or expanded cemetery of any type in the Town, after the date of adoption of this Ordinance, without a written permit approved by the Town Board. Approval, conditional approval, or denial of a permit shall only be made after a public hearing with a Class 2 Notice under Chapter 985 Wis Stats. Any new or expanded cemetery to be approved by the

Town Board shall be, at a minimum, properly platted and filed with the Town Clerk and recorded in the Office of the Register of Deeds for Waupaca County, Wisconsin. No cemetery shall be located, established, or dedicated contrary to Sec. 157.065 pr 157.128 Wis Stats. The minimum acreage size of a new or expanded cemetery in the Town shall be determined by the Town Board. No cemetery shall be located, established or dedicated in violation of Town, County or other zoning ordinances.

#### SECTION 8 – PURCHASE OF LOTS/GRAVE SPACES

- 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. Sale of lots.
  - a. Persons or their authorized agents desiring to purchase a lot in the Town Cemetery are referred to the Town Clerk or Town Cemetery Official.
  - b. Lots in the Town Cemetery are reserved for, and limited to, residents past and present of the Town of Lind or their immediate relatives, and as approved by the Town Board.
  - c. No lot shall be used for any other purpose than the burial of the human dead and the placing of appropriate markers as memorials.
  - d. The Town's Cemetery Official shall issue a lot order for a selected lot to a prospective purchaser, his or her agent.
  - e. When the lot is paid in full, a receipt will be issued to the purchaser by the Town Treasurer or Cemetery Official. The Town Clerk will issue a cemetery lot deed to the lot purchaser. The original deed from the Town and the records of the cemetery kept by the Town Cemetery Official and Clerk are the only evidence of title to any lot. All lots in Town Cemeteries are under the obligation of the Town of Lind to provide perpetual care.
  - f. The purchase of lots for the purpose of erecting a mausoleum or any above ground structure must be approved by the Town Board.
  - g. For convenience, safety and appearance, the Town will not allow any other equipment but that of the vault company or designee by the Cemetery Official or Town Board within the Town Cemetery.
  
- C. Repossessed Vacant Lots. All repossessed vacant lots in any Town Cemetery when resold are subject to the same fees and charges as other unoccupied lots.
  
- D. Burial.
  - a. 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 the owner's spouse, 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 Cemetery Official, for the burial of specific persons other than the owner or 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.

- b. Unless otherwise directed in a writing filed with the Town Cemetery Official by the lot owner, on the death of the last owner, full ownership of the cemetery lot shall descend as set forth in Sec. 157.10 Wis Stats., as currently follows:
  1. To the owner's surviving spouse or domestic partner under Chapter 770 Wis. Stats.
  2. If there is no living spouse or domestic partner to the owner, to that owner's children, including by adoption.
  3. If there is no living spouse, domestic partner or children, including by adoption, to that owner's grandchildren, including by adoption.
  4. If there is no surviving spouse, domestic partner, children or grandchildren, including by adoption, then to the Town of Lind as the Cemetery Authority for the Town Cemetery in which the lot is located.
  
- E. 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 the 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 judgement in the decedent's estate must be delivered to the Town Cemetery Official before the Town will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of decedent 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.
  
- F. Resale of Lots. Lot owners may not resell or transfer lots or parts of lots in any Town Cemetery except as follows:
  - a. Reconveyance of lots or parts of lots may be made only upon written application filed with and approved by the Town Board. 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 number. Upon approval by the Town Board, the owner of the lot shall execute a deed in the same form as an original deed from the Town under Section 8, sub. e.
  - b. 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 the applicable fee has been paid. The Town of Lind may refuse consent to transfer or to an assignment as long as there is any indebtedness due to the Town of Lind.
  - c. The Town of Lind may buy back, if requested to, purchased said lot at the price of \$35.00.

#### SECTION 9 – 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 Cemetery Official.

- B. Grave Digging. No grave shall be laid out or dug and closed by anyone other than a designated Cemetery Official unless special permission is given by the Town Cemetery Official. 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. All graves shall conform to the applicable State of Wisconsin laws, administrative codes, rules, regulations and specifications. The time for a disinterment or burial service shall be arranged so that the grave shall be properly filled, and all surplus earth removed before sunset on the day of the disinterment or burial service, unless that requirement is specifically waived in writing by the Town Cemetery Official, or when prohibited by weather conditions.
- C. Number of Burials Per Grave. No grave in any Town Cemetery may be used for the burial of more than one body except in the following circumstances:
- a. Three remains from cremation shall be allowed in one grave with one upright headstone placed in line with adjacent stones. Additional markers must be flat markers in line with the headstone.
  - b. All cremations shall be placed in a non-biodegradable container. No cremation shall be scattered on any lot or cemetery property.
- D. Green Burials. Green (or natural) burials may only occur upon the written permission of the Town Cemetery Official. Embalming fluids are not allowed. All green burials shall be made in biodegradable containers such as shrouds, blankets, bare wood caskets, biodegradable urns, and cremation grade cardboard boxes. Decorative flowers, plants, shrubs and trees may not be planted without first securing the consent of the Town Cemetery Official. Green cemetery areas will be mowed with the same frequency as the adjoining cemetery. The Town is not responsible for the maintenance or care of any flowers, plants, shrubs or trees planted on or near a lot upon which a green burial has occurred.
- E. Seasonal Burials. The Town Cemetery Official shall provide for cemetery services and burials at any Town Cemetery during each season, including winter, whenever practicable, in compliance with Sec. 157.114 Wis. Stats. However, the Town of Lind has no duty to bury, remove any human remains, or to allow the burial of any human remains, unless those requesting burial or disinterment are or will be in full compliance with this Ordinance, State laws, and any bylaws and regulations established by the Town Board. The Town Board may, in its sole 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.
- F. Interment. The Funeral Director or designated official is required to be in attendance at every interment. The Funeral Director is responsible to ensure that no interment takes place without proper papers in place with all laws having been complied with. Any person engaged with work in the vicinity of a burial must suspend their labor during the service at the grave.
- G. Disinterment. Disinterment of a body will not be made without proper authority in accordance with the laws of the State of Wisconsin. All permits must be presented to the Town Cemetery Official prior to disinterment.

## SECTION 10 – TOWN CEMETERY MONUMENTS AND MARKERS

- A. Setting Grave Markers. No monument, foundation or marker will be allowed to be placed on the lot unless the grave site is paid in full.
- a. Grave markers, monuments, and foundations at the Town Cemetery may be set by reputable monument company employees or agents or other persons authorized by the lot owners or Town Cemetery Official according to the rules specified in the Ordinance.
  - b. All markers must have a cement foundation. The top of the foundation shall be constructed flush with the ground line and be of such size and design as will provide ample insurance against settlement or damage to the monument or marker. Whenever possible, all markers shall be set with, at minimum, a five-inch margin from the other edges of the foundation.
  - c. The setting of grave markers, monuments and foundations, and the transportation of all tools and related materials, within the Town Cemetery is subject to the supervision and control of the Town Board or the Town Cemetery Official. Truck operation is not permitted when, in the opinion of the Town Board or Town Cemetery Official, truck operation may cause damage to the driveways or other Town Cemetery property.
- B. Limitations. All of the following apply to monuments and markers in the Town Cemeteries:
- a. The Town Board may refuse permission to erect any monument, marker or foundation not keeping with the good appearance of the grounds at the Town Cemetery.
  - b. Only one upright monument or marker shall be allowed per grave.
  - c. No foundation, marker, or monument may be larger than the width of the grave or group of graves purchased. All monuments and foundations must be set in line with the other monuments as far as possible or as directed by the Cemetery Official.
  - d. Temporary markers shall be removed and replaced with a permanent marker within one year, or upon order of the Town Board. The Town Clerk may require, at minimum, prior to burial, a deposit of \$250.00 payable to the Town of Lind 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 the costs of the marker or monument placed and the costs of installation of said marker or monument.
  - e. Removal of a marker or monument, once placed at a Town Cemetery on its foundation, is prohibited, except by written permission of the Town Board.
  - f. Responsibility of upkeep of markers, monuments and footings is that of the individual owners. While responsible care will be given to protect markers and monuments, the

Town of Lind will not be responsible for loss or damage to markers or monuments erected within a Town Cemetery.

#### SECTION 11 – PERPETUAL CARE

- A. The term Perpetual Care shall include the obligation of the Town of Lind to both maintain and care for the sites in all Town Cemeteries. It further includes the maintenance of turf, leaf disposal, snow removal, trees, shrubs, graves, roads, fences, and buildings as necessary to preserve the maintenance integrity of the cemetery. Such care does not include the maintenance or repair of any gravestones or monumental structures erected upon lots or grave spaces. All work shall be under the control of the Town of Lind Board or it's acting agents.

#### SECTION 12 – TREES, SHRUBS, FLOWERS AT TOWN CEMETERIES

- A. Tree and Shrub Planting. The planting of trees and shrubs on any lots or parts of lots in any Town Cemetery is prohibited except by written consent of the Town Board.
- B. Large Tree Removal. Lot owners may, with written consent of the Town Board, remove large trees and stumps on or adjacent to cemetery lots in the Town Cemetery that hinder the full usage of the lot. The expense of the tree and stump removal shall be paid for by the lot owners.
- C. Fresh Flowers. All flower baskets at grave or lot sites at the Town Cemetery shall be removed by November 1 of each year. Fresh cut flowers may be used in the Town Cemetery at any time. Containers for cut flowers are to be the type that is level with the ground surface and not holding water when not in use; or the type to be disposed of when the flowers are removed. Deteriorated or unsightly flowers may be removed from the lot by the Cemetery or Town Official at his or her sole discretion.
- D. Flags. American Flags will be allowed to be placed by persons during the calendar year at any time beginning one (1) week prior to Memorial Day and ending on Veterans Day. Flags left after one week from Veterans Day may be removed by a Cemetery or Town Official and retained for persons to reclaim until December 31 of each year.
- E. Potted Plants. Potted plants at any Town Cemetery may be set on lots, without disturbing the sod, if removed by November 1 of each year. If a potted plant is not removed by November 1, the potted plant may be picked up and destroyed by the Cemetery Official or removed and preserved for planting within the Town Cemetery.
- F. Artificial Flower Decorations and Baskets. Artificial decorations are prohibited in any Town Cemetery unless in a vase or pot. Deteriorated or unsightly decorations, flowers or baskets may be removed from the lot by the Cemetery Official at his or her sole discretion. All artificial decorations shall be removed by November 1 of each year.

- G. Flowers and Plants. No flowers or plants may be planted directly into the ground and are prohibited unless in a vase or pot in any Town Cemetery. Deteriorated or unsightly flowers or plants may be removed from any Town Cemetery by the Cemetery Official at this or her sole discretion.
- H. Vine, Wreath and Memorial Removals. Vines, wreaths and memorial or personal memorabilia items that interfere with the proper care of lots or graves or may damage the grass may be removed from any Town Cemetery by the Cemetery Official or Cemetery lawn care service at his or her sole discretion. Items will not be moved from around markers and monuments for mowing or trimming.
- I. Maintenance and Personal Items. There shall be no responsibility on the part of the Town, its officers, employees, contractors, elected officials or agents, including the Cemetery Official 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. Lawn care and maintenance of cemetery grounds will be done at discretion of the Town Board. All personal items, including but not limited to, wreaths, flowers, plants, flags, memorials, will not be moved from lot sites by Cemetery Official, Town Official, or it's acting agents while performing mowing, trimming, lawn care or maintenance of the cemetery grounds.
- J. Glass Containers. Glass containers shall not be allowed in any Town Cemetery.

#### SECTION 13 – RULES FOR VISITORS TO TOWN CEMETERIES

- A. Visiting Hours. Every Town Cemetery shall be open to visitors at all times between the hours of 8:00 a.m. and sunset. Visitors are required to use existing roadways for travel whenever possible.
- B. Vehicles in Town Cemeteries. Motor Vehicles traveling within any Town Cemetery may not exceed 15 mph. Motor vehicle, except authorized maintenance vehicles for the Town, must use designated roadways at all time. No person may ride, operate or make use of any of the following vehicles in any Town Cemetery without the prior consent of the Town Board or the Cemetery Official:
  - a. Snowmobiles
  - b. Go-Carts
  - c. Skateboards, roller skates, sleds, toboggans, or any other play, toy or amusement vehicle
- C. Dogs and Other Animals. Dogs and other animals are permitted in any Town Cemetery only if confined in a vehicle or on a leash while in the Town Cemetery.
- D. Firearms. Except in conjunction with military funerals or specific memorial events permitted by the Town Board, the discharge of firearms is prohibited in any Town Cemetery.

#### SECTION 14 - MISCELLANEOUS

- A. Fees. All Fees and charges outlined in this Ordinance for any Town of Lind Town Cemetery shall be made payable to the Town of Lind.
- B. Schedule of Payments. A schedule of 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 and available upon request. 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 times.
- C. Cemetery Official. The Town Board may by resolution designate, retain or employ a person(s) as the Town's Cemetery Official(s) and 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.

#### SECTION 15 – PENALTIES

- A. Citations. 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 an order, rule or regulation made and adopted herein, shall be subject to a forfeiture of from \$50.00 to \$500.00 for each offense. Each day that a violation continues shall be considered a separate offense. Further it is declared as a matter of public policy that any act in violation of this Ordinance constitutes a public nuisance that is subject to abatement upon order of the Town Board. The Town Board may, where appropriate, seek injunction relief action to prevent violations of this Ordinance and Chapter 157 of Wisconsin Statutes. Furthermore, the Town Board reserves the right to withhold from any person in violation of this Ordinance and Chapter 157 of the Wisconsin Statutes, the issuance of any additional cemetery lot purchases or permits for burial or disinterment until the violation has been abated and all penalties and costs satisfied.

#### SECTION 16 – SEVERABILITY

- A. The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town of Lind would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this Ordinance or the application to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereof. All other Ordinances or parts of other Ordinances in conflict with this Ordinance are hereby repealed in so far as they conflict with this Ordinance.

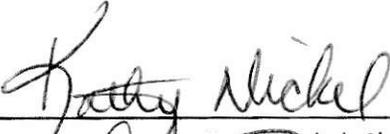
#### SECTION 17 – EFFECTIVE DATE

- A. This Ordinance shall take effect upon passage and publication by the Town Board of Supervisors for the Town of Lind, Waupaca County, Wisconsin.  
This Ordinance is effective on April 12, 2021.

The Town Clerk shall properly post or publish this Ordinance as required under §60.80, Wis. Stats.

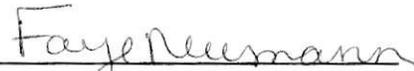
Adopted this 12<sup>th</sup> day of April, 2021.

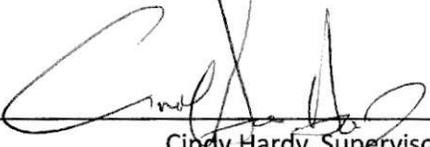
Amended this 13<sup>th</sup> day of February, 2024.

  
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Kathy Nickel, Chairman

  
\_\_\_\_\_  
Zoey Nelson, Supervisor I

Attest:

  
\_\_\_\_\_  
Faye Neumann, Town Clerk

  
\_\_\_\_\_  
Cindy Hardy, Supervisor II