

ORDINANCE # 39
CEMETERY ORDINANCE

STATE OF WISCONSIN

Town of Namakagon

Bayfield County

SECTION I - TITLE AND PURPOSE

The title of this Ordinance is the "Town of Namakagon Town Cemetery Ordinance." 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 II - AUTHORITY

The Town Board of the Town of Namakagon 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 III - 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 IV - DEFINITIONS

In this ordinance:

- A. "Burial" means entombment, inurnment, or interment and "bury" means to entomb, inurn, or inter.
- B. "Cemetery" means any location for burial of human remains in the town.
- C. "Human remains" means the body of a deceased individual that is in any stage of decomposition or has been cremated.
- D. "Lot" means a single grave lot platted in accordance with Section VI, whether or not occupied by a grave.
- E. "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 placed at the time of burial.

F. "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.

G. "Town" means the Town of Namakagon, Bayfield County, Wisconsin.

H. "Town board" means the board of supervisors for the Town of Namakagon, Bayfield County, Wisconsin, and includes designees of the board authorized to act for the board.

I. "Town cemetery" means a municipal cemetery owned, operated, and maintained by the Town of Namakagon, Bayfield County, Wisconsin, under s. [157.50](#), Wis. stats., that is located within the town.

J. "Town chair" means the chairperson of the Town of Namakagon, Bayfield County, Wisconsin.

K. "Town clerk" means the clerk of the Town of Namakagon, Bayfield County, Wisconsin.

L. "Town treasurer" means the treasurer of the Town of Namakagon, Bayfield County, Wisconsin.

M. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections 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 Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI - STATEMENT OF POLICY

Every town cemetery is owned, operated, directly controlled, and maintained by the town 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. 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 VII - 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 Register of Deeds for Bayfield 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 sections 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.

D. New or expanded cemeteries. 1. No person or authorized agent of any cemetery may conduct any burial, or 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 written permit approval of the town board. Approval on condition, 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 minimum, properly platted and filed with the town clerk and recorded in the Office of the Register of Deeds for Bayfield County, Wisconsin. No cemetery shall be located, established, or dedicated contrary to s. 157.065 or 157.128, Wis. stats. The minimum cemetery acreage must be at least 30 contiguous acres at platting dedication. No cemetery shall be located, established, or dedicated in violation of a town, county, or other zoning ordinance. The town board may require that the following criteria be met for approvals of permits: [list].

2. After the date of adoption of this ordinance, any place in the town where human remains are buried on private or public land without written permit approval of the town board and not timely removed within 30 days after receipt of written notice from the town board to remove said remains is declared to be a public nuisance. In addition to commencing an action for penalties as provided in this ordinance, the town may take action to abate the nuisance and recover its costs of doing so, as provided in the town Public Nuisance Ordinance.** This paragraph does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with chapter 157, Wis. stats., and this ordinance.

3. 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.

4. 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 Bayfield 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 XIII - MISCELLANEOUS

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 10 days prior to the hearing.

SECTION IX - 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 XI, 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 offense under this ordinance. The town board may withhold the issuance of any town licenses, authorities, grants, or permits and any additional 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 15 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 is unknown or the person responsible has not [abated or removed] the violation within 15 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 provided in Ch. 813, Wis. stats.

SECTION X - 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 9th day of August, 2011.

Town Chairman

Supervisor

Supervisor

Town Clerk