

**ORDINANCE #3-2011
TOWN OF HOLLAND
ESTABLISHMENT OF NEW CEMETERIES**

SECTION 1.0 - INTRODUCTION

1.01 Purpose

The purpose of this ordinance is to regulate the construction, platting, and maintenance of new or expanded cemeteries and the burial of human remains.

1.02 Authority

The Town Board of the Town of Holland 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.

1.03 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, platting and maintenance of any new cemeteries, and the burial of human remains therein, including cemeteries that that are not owned, operated, or controlled directly by the town.

1.04 Definitions

- (A) Burial: entombment, inurnment, or interment and “bury” means to entomb, inurn, or inter.
- (B) Cemetery: any location for burial of human remains in the town.
- (C) Human remains: the body or body part of a deceased individual that is in any stage of decomposition or has been cremated or preserved by any means.
- (D) Lot: one or more graves located in a single identified subsection of a cemetery.
- (E) Natural burial grounds: A plot of land or cemetery in which a corpse may be buried without chemical preservatives or disinfectants such as embalming fluid so as not to destroy the microbial decomposers active in breaking down the body. The corpse may be buried in a biodegradable coffin, casket, or shroud and without a burial vault or outer burial container in a manner consistent with Wisconsin Statutes and Administrative Code requirements as may be in effect at the time of burial.
- (F) Sexton: 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 the Town Board or any person or committee designated to act administratively to manage, operate, maintain, and provide care for the town cemetery or any part of the operations of any town cemetery pursuant with this ordinance.
- (G) Town: the Town of Holland, La Crosse County, Wisconsin.

- (H) Town Board: the board of supervisors for the Town of Holland, La Crosse County, Wisconsin.
- (I) Town cemetery: a municipal cemetery owned, operated, and maintained by the Town of Holland, La Crosse County, Wisconsin, under s. 157.50, Wis. Stats., that is located within the town.
- (J) Town Clerk: means the clerk of the Town of Holland, La Crosse County, Wisconsin.
- (K) Wis. Stats.: the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION 2.0 - 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, platting, and maintenance of any new cemetery or expanded cemetery of any type in the town, including cemeteries operated by associations, religious orders and societies, and privately owned, controlled, operated, and maintained cemeteries.

SECTION 3.0 - NEW BURIALS, NEW CEMETERIES, AND NEW OR EXPANDED CEMETERY OPERATIONS

3.1 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 & 157.07 Wis. stats., shall cause the blocks and lots to be platted and recorded in the Office of the Register of Deeds for La Crosse County, Wisconsin, in accordance with s. 157.065, Wis. stats.

3.2 Lots

The Town Board or the sexton shall designate, for any town cemetery, certain lots as a single grave section, and 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.

3.3 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.

3.4 New or expanded cemeteries

- (A) 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, 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 La Crosse County, Wisconsin. No cemetery shall be located, established, or dedicated contrary to s. 157.065 or s. 157.128, Wis. stats. The minimum cemetery acreage is 20 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:
1. Provision of a plan for perpetual care of a new cemetery or cemetery expansion, including funds for that purpose.
 2. Restrictions on the use of headstones and, if permitted, limitations on size and composition.
 3. Restrictions on the use of so-called “natural burial grounds” and the specific conditions to be met.
 4. Restrictions on the dissemination of ashes resulting from the cremation of human remains.
 5. Such other criteria or conditions that the Town Board deems appropriate.
- (B) No mounds, vaults or mausoleums may be constructed on any lot or grave subject to this section without prior approval of the Town Board. It is the policy of the Town that such approval will not be granted except in special circumstances in the sole discretion of the Town Board.
- (C) Unless otherwise indicated in a proposed cemetery plan, burial permits shall be issued by the Town Clerk according to the procedure and fees established by and amended from time to time by the Town Board.
- (D) 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 (thirty) days after receipt of written notice from the Town Board to remove said remains is declared 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. 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.

3.5 Exceptions

If an exception is requested, the Plan Commission shall review the proposed plan. Upon completion of its review, the Plan Commission shall submit its recommendations in writing to the Town Board. Final approval shall be made by the Town Board

SECTION 4.0 – CEMETERY TRANSFER TO TOWN

The Town Board of the Town of Holland may, by resolution, accept by transfer the real estate, funds, and personal property of any cemetery association in the Town of Holland upon such conditions deemed appropriate by the Town Board.

SECTION 5.0 - PENALTIES

5.1 Any person or entity who violates any provision of this ordinance or any condition, limitation or restriction established by the Town Board shall, upon conviction, be fined and shall forfeit not less than \$10 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 until the violation has been abated and all penalties and costs satisfied. Unpaid forfeitures may be added as a special assessment against any property owned by the person or entity subject to the forfeiture.

5.2 Abatement

(A) In lieu of or in addition to any other penalty for a violation of this ordinance, when 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 to abate or remove the violation within a set time limit following receipt of the notice. Service of notice shall be by personal service or registered mail with return receipt requested.

(B) When the person responsible for the violation of this ordinance is unknown or the person responsible has not abated or removed the violation within the time limit set forth in 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 if the identity of that person or entity is later learned.

5.3 In lieu of or in addition to any other penalty for a violation of this ordinance, the Town Board: 1.) may seek to enjoin any continuing violation of this ordinance as provided in chapter 813, Wis. Stats and 2.) shall have any other rights or remedies provided by law.

SECTION 6.0 – APPEAL

Decisions and orders of the sexton and/or Town Board may be appealed to the Circuit Court of La Crosse County for a determination of whether said actions were arbitrary and capricious.

SECTION 7.0 – EXCLUSION

This ordinance shall not apply to any verified Native American burial sites established before the effective date of this ordinance. However, to the extent permitted by law, any expansions of such sites shall be governed by this ordinance.

SECTION 8.0 - SEVERABILITY

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION 9.0 - EFFECTIVE DATE

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by s. 60.80, Wis Stats.

Adopted by the Holland Town Board of the Township of Holland, La Crosse County, Wisconsin, this 9th day of November, 2011.

By:

David Carlson, Town Chairman

Attest:

Marilyn Pedretti, Town Clerk

Date Posted: 11/14/11