

## CHAPTER 4

### Village-Owned Cemetery (Ordinance 2019-20; 11/18/19)

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#### **SEC. 12-4-1 DEFINITIONS.**

- (a) “Block” means a portion of a cemetery encompassing a number of sections.
- (b) “Burial” means the entombment, inurnment or interment of human remains.
- (c) “Cemetery” means a place set apart for the burial of the dead and includes not only the Lots for interring said bodies but also includes avenues, walks, and grounds. “Cemetery” refers exclusively to the Village-Owned Caledonia Memorial Park Cemetery.
- (d) “Cemetery Director” means the person designated by the Village Board.
- (e) “Foundation” means a slab that is at least twenty-four (24) inches deep with the top of the slab level with the ground.
- (f) “Green Burial” means a body that is wrapped in a burial shroud and not encased in a casket, grave box, or vault made of concrete, marble, or rustproof metal.
- (g) “Grave” 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.
- (h) “Gravestone” means a stone or marker with an inscription placed, installed, or erected near the grave.

- (i) “Lot” means a grave in the Cemetery.
- (j) “Lot Owner” or “Purchaser” means the purchaser of burial rights or privileges evidenced by a conveyance of property located within the cemetery.
- (k) “Monument” means a large stone with an area for the inscriptions and a foundation for at least four Lots.
- (l) “Non-resident” means any person(s) who is not a resident.
- (m) “Resident” means any person who has resided in the Village for one full year immediately prior to the purchase of a cemetery Lot or who owns taxable property in the Village of Caledonia.
- (n) “Section” means a portion of a cemetery that embraces 8-10 (eight to ten) Lots.
- (o) “Undertaker” means a person whose business is to prepare the dead for burial.
- (p) “Village” means the Village of Caledonia.

**SEC. 12-4-2 CEMETERY OVERSIGHT.**

- (a) **Establishment.** The Cemetery Director shall govern and oversee the Cemetery.
- (b) **Oversight Duties.**
  - (1) The Cemetery Director shall:
    - a. Advocate on behalf of Lot Owners regarding all matters pertaining to the Cemetery.
    - b. Manage the care and maintenance of the Cemetery.
    - c. Manage improvements in the Cemetery as needed.
    - d. Enforce operating rules and procedures regarding the Cemetery.
  - (2) The Cemetery Director shall make written findings and recommendations to the Village Board.
  - (3) The Cemetery Director shall have all additional duties assigned by the Village Board or by Village Ordinances.
- (c) **Limitation of Authority.** No officer or member of the Caledonia Parks Department, nor the Cemetery Director, shall commit or purport to commit the Village Board or the Village of Caledonia to any course of action, contract, obligation or indebtedness with respect to the Cemetery without prior approval by the Village Board.

**SEC. 12-4-3 CARE AND MANAGEMENT OF THE CEMETERY.**

- (a) The operating policies and procedures and the management, care, funeral and grave decorations, and maintenance of the Cemetery shall be established by the Cemetery Director and approved by the Village Board. The Village Board may adopt a resolution that transfers such authority to some other commission or committee.
- (b) The Village Clerk shall arrange for the sale of Lots, record burials, and maintain all records of the Cemetery.
- (c) The applicable provisions of Ch. 157 of the Wisconsin Statutes relating to cemeteries, as amended from time-to-time, are incorporated herein by reference.

#### SEC. 12-4-4 GENERAL REGULATIONS.

- (a) **Hours.** It shall be unlawful for any person other than Village employees performing their duties to be in the Cemetery between sunrise and sunset the next day
- (b) **Only Humans to be Buried.** There shall be no burial of anything other than the remains of human bodies in the Cemetery.
- (c) **Animals Prohibited.** No animals shall be allowed in the Cemetery except in the confines of a vehicle or as a service animal.
- (d) **Applicability of Traffic Regulations.** The provisions of Title 10 of this Code, Motor Vehicles and Traffic, shall apply in the Cemetery.
- (e) **Applicability of Park Regulations.** Except as otherwise provided in this Chapter, the provisions of the Village Park Regulations in Village Code Section 12-1-1 shall apply in the Cemetery, including, but not limited to, the 15 mph speed limit.
- (f) **Funeral Processions.** Funeral Directors shall contact the Cemetery Director to make arrangements for funeral processions.

#### SEC. 12-4-5 BURIALS.

- (a) **Interment.** The ownership of a Lot consists of the right of interment. Such Lots can be used for no other purpose and cannot be divided into smaller portions. Interments shall be restricted to the persons designated in the certificate of ownership or to any other person upon the filing with the Village an affidavit authorizing the burial of such other person, and no transfer or assignment of any Lot or interest therein shall be valid and effective until the same has been recorded by the Village Clerk upon and within the appropriate books and records. No owner or holder of a certificate of ownership shall allow any interments to be made for remuneration. Lots are limited to one casket per Lot. However, two cremated remains under Sec. 12-4-5(d)(3) may be buried in a Lot if an affidavit authorizing the burials are filed with the Village Clerk.
- (b) **Disinterment.** Disinterment must be made by an approved contractor in compliance with the Wisconsin Statutes and public authorities of the State of Wisconsin and with permission of the Cemetery Director.
- (c) **Contractors.** Contractors approved by the Village shall conduct Cemetery burials.
- (d) **Type of Required Vault.**
  - (1) General. The burial of the remains of any person six months or more of age at the time of death that is buried in a casket shall be enclosed in a grave box or vault made of concrete, marble, or rustproof metal.
  - (2) Baby Caskets. For infants less than six months of age, a polystyrene sealer type casket shall be used for burial and is considered a permanent vault.
  - (3) Cremated Remains. Cremated remains may be buried in a Lot in the Cemetery. All cremated remains shall be placed in an urn. The urn shall be buried in a burial urn vault made of concrete, marble, or rustproof metal.
  - (4) Green Burials. Green burials are prohibited in the Cemetery.
- (e) **Notice to Cemetery Director and Clerk.** No person shall inter any body or remains in any Lot or part of the Cemetery without first notifying the Cemetery Director of such intention and furnishing the Village Clerk with the necessary information to enable the

Village Clerk to complete his or her records. No burial shall be made without a proper death certificate or burial permit.

- (f) **Severe Weather.** During severe weather conditions, the Cemetery Director shall decide, upon consultation with the undertaker responsible for burial, whether or not to postpone burial until suitable conditions exist. The undertaker shall provide care and storage for the remains until proper burial can be made.
- (g) **Orders of Undertaker.** Orders for burial given by the undertaker having charge of the burial of any person shall be construed by the Cemetery Director as orders from the Lot Owner, and after interment no changes in location of graves shall be made except at the expense of the Lot Owners. Undertakers making arrangements for the deposit of a body shall be held responsible for the Lot fees if they have not been previously paid.

#### **SEC. 12-4-6 MAPS.**

Cemetery lands, or such parts thereof as may from time-to-time be required, shall be surveyed and subdivided into sections, blocks, Lots, or other subdivisions as may be necessary to accurately describe, number, and record the sale and conveyance of interment spaces of suitable size for burial in accordance with Wis. Stat. §157.07. A detailed map or plat showing all sections, blocks, Lots, or other subdivisions together with such avenues, paths, alleys, and walks designated and numbered as may be proper, shall be filed with the Village Clerk and recorded with the Office of the Register of Deeds for Racine County after such map or plat has received the acceptance and approval of the Village and County Board, if necessary, and certified by the Village Director of Public Works or a registered land surveyor. Said map shall be periodically updated as deemed appropriate by the Village. All sales, conveyance or transfers of interment spaces shall be by reference to said map or plat. The map or plat shall be filed with the Village Clerk.

#### **SEC. 12-4-7 RECORDS.**

The Village Clerk shall keep records of all certificates, transfers, orders, and permits as provided for by this Chapter. The record herein required to be kept shall include, in addition to other information deemed necessary, the name and address of the Purchaser, the amount paid for the Lot, the date of sale, a Lot or part thereof sold, the portion of any Lot occupied and the portion vacated by disinterment, transfer or disinterment of any body, and the place from which and to which said body were removed, and the persons to which certificates are transferred and assigned, together with the date thereof. Said records shall also indicate the name, age, and sex of the deceased, the date of death, and the date of burial.

#### **SEC. 12-4-8 PRICE OF LOTS.**

The price of Lots shall be determined giving consideration to the number of unsold Lots remaining in the Cemetery, the annual cost of maintenance, and the perpetual cost of maintenance in accordance with Wis. Stat. §157.11(5). The price of the Lots shall be set by the Village Board from time-to-time by resolution with consideration of a recommendation from the Village Clerk

and the Cemetery Director. The price of a Lot for a resident may vary compared to the price of a Lot for a non-resident.

#### **SEC. 12-4-9 SALE OF LOTS.**

- (a) **Application.** All applications for the purchase of a Lot(s) in the Cemetery shall be made to the Village Clerk. The Village Clerk shall issue to persons wishing to purchase a Lot a certificate describing the Lot desired, the price, and stating that the Lot has not been sold. If the purchase is not made within 10 calendar days of the granting of such certificate, the certificate shall expire and become null and void. The Village Clerk may thereafter issue another certificate to any person applying therefor.
- (b) **Sales to be Recorded/Deed.** On payment to the Village Clerk of the sum of money named in the Village Clerk's certificate and in accordance with a resolution setting prices and upon issuing a receipt, the Village Clerk shall file an ownership card and shall then record said purchase on the official Cemetery map. It shall be the responsibility of the Village President and the Village Clerk in the name of the Village of Caledonia to grant the deed for the Lot, showing the owner's name, the Lot purchased, and the total sale price. A separate deed shall be issued for each Lot sold.
- (c) The Cemetery Director shall not allow a burial to take place until the fees for the sale of the Lot have been completely paid.
- (d) **Conveyance of Lots Limited.**
  - (1) The owner of a Lot, as indicated in the deed issued by the Village of Caledonia, shall have burial rights in such Lot. The owner shall not transfer burial rights by any means other than affidavit as permitted under Section 12-4-8(d)(2).
  - (2) The owner of a Lot may consent to the burial of a person other than the owner listed in the deed by signing an affidavit authorizing such burial. Such affidavits, available from the Village of Caledonia, must be signed by the present owners, notarized, and returned to the Village of Caledonia for recording.
  - (3) Lots may be transferred by owners to other persons upon filing an Affidavit of Transfer of Ownership and the payment of a Transfer fee to the Village under Sec. 12-4-9. The ownership card shall be updated and the purchase shall be recorded on the official Cemetery map. However, no new deed shall be issued. The owner shall complete and sign an Affidavit of Transfer of Ownership in a form prescribed by the Village and such affidavit shall be filed with the Cemetery deeds.
  - (4) If the owner of a Lot dies, the Lot may be conveyed in accordance with state and federal statutes pertaining to the distribution of property.

#### **Sec. 12-4-10 TRANSFER FEE AND SURVEYING FEE.**

- (a) **Transfer Fee.** It shall be the duty of the Village Clerk, or his or her designee, to collect a fee to cover Village administrative expenses whenever any Cemetery Lot is conveyed, transferred, or sold by a Lot Owner. This does not apply to the sale from the Village to a new owner. Such fee shall be paid by the owner and/or the transferee as agreed between them and shall be deposited in the Cemetery fund. The Transfer Fee shall be set by the

Village Board from time-to-time by resolution with consideration of a recommendation from the Village Clerk and the Cemetery Director. The Lot Owner shall be notified of the Transfer fee at the time of purchase of the Lot from the Village.

- (b) **Surveying Fee.** From time-to-time it may become necessary as determined by the Cemetery Director or the Village, to resurvey a Lot or the Cemetery. If it is determined that a Lot needs to be resurveyed and such resurvey is occurring as needed as part of a transfer of the Lot or is requested by the owner or transferee, the owner or transferee shall pay a surveying fee to the Village to cover administrative costs and preparing or obtaining the survey. The surveying fee shall be set by the Village Board from time-to-time by resolution with consideration of a recommendation from the Village Clerk and the Cemetery Director. Such fee shall be prepaid to ensure collection of the fee.

#### **SEC. 12-4-11 PERMITS; VILLAGE NOT LIABLE.**

The mortician, heirs of the decedent, or other representatives or agents of the decedent must secure all permits or authorizations for interments, disinterment and removals and other Cemetery services prior to the act of burial or removal. Under no circumstances shall the Village assume responsibility for errors in opening graves. The Village shall not be responsible for the interment certificate nor for the identity of the person sought to be interred.

#### **SEC. 12-4-12 LANDSCAPING AND IMPROVEMENTS.**

All grading, landscape work and improvements of any kind and all care and supervision shall be done, and all trees and shrubs shall be planted, trimmed, cut or removed, and all openings and closings of Lots and all interments, disinterment, and removals shall be made only by the Village or with the written consent and approval of the Village. The Cemetery Director and his or her authorized representatives shall have charge of the grounds and buildings and at all times shall have supervision and control of all persons in the Cemetery.

#### **SEC. 12-4-13 CORRECTION OF ERRORS.**

In the event an error shall occur involving the interment of the remains of any person, the Village has the right to remove and re-inter the remains in such other property of equal value and similar locations as may be substituted and conveyed in lieu of the mistaken property in accordance with, Wis. Stat. §157.112

#### **SEC. 12-4-14 CEMETERY FUNDS.**

The Village shall maintain the Cemetery fund to which all moneys received from the sale of Lots within the confines of the Cemetery owned, operated, or under the management or control of the Village shall be deposited. The said fund shall be maintained for general improvements,

maintenance, repair, and care of the Cemetery, or the purchase and acquisitions of additional grounds for Cemetery purposes and shall not be used for any other purpose.

#### **SEC. 12-4-15 RIGHT TO MAINTAIN.**

- (a) The Village reserves the right to enter upon any Lot to perform all work necessary for the maintenance of the Cemetery. The Village is responsible for the total maintenance of the Cemetery.
- (b) **Funeral decorations.** Funeral decorations shall be allowed anywhere on a burial Lot for a seven (7) calendar day period immediately following a burial. Any Lot Owner, heir to a Lot Owner or individual authorized by a Lot Owner wanting to keep any decorations shall remove them before the seven (7) day period expires. Items remaining after 7 days, except as provided for in Sec. 12-4-14(e), shall be removed and disposed of by Village personnel.
- (c) **Gravestones, Monuments and Foundations.**
  - (1) Size Requirements. A Gravestone shall be placed at the head of the Lot (the west side of a Lot). The height of a Gravestone shall be level with the ground. The length of a single Gravestone cannot be less than twenty (20) inches nor more than thirty (30) inches. The length of a double Gravestone cannot be less than thirty-six (36) inches nor more than forty-eight (48) inches. Each Gravestone shall have a foundation at least twenty-four (24) inches below the ground. The Cemetery Director shall approve Gravestone placement and the foundation before installation can occur. The Cemetery Director shall approve all Gravestones prior to installation. Monuments are permitted in the Cemetery. Monuments are not required to meet the height restrictions set forth in this Section. Monuments shall be approved by the Cemetery Director.
  - (2) Height Requirements. Gravestones that are above the ground level are prohibited from the Cemetery. Lots purchased prior to the adoption of this section may have Gravestones that are above the ground level if the Gravestone is approved by the Cemetery Director.
  - (3) Gravestone Replacement and Height. Damaged Gravestones beyond repair shall be replaced or laid flat on the ground pursuant to Sec. 12-4-15. If a Gravestone is replaced, the new Gravestone shall comply with the height requirements under this Section.
  - (4) Inspection Fee. An inspection fee shall be charged for the inspection of the foundation and the Gravestone or monument. The inspection fee shall be set by the Village Board from time to time by resolution with consideration of a recommendation from the Village Clerk and Cemetery Director.
- (d) **Damage/Theft.** The Village shall not be responsible or liable for flowers, grave decorations, or other personal property left on the burial Lot, or anywhere in the Cemetery.
- (e) **Lot Maintenance Rules.** The operating policies and procedures regarding maintenance of Cemetery Lots shall be set by the Village Board from time-to-time by resolution with input from the Cemetery Director.
- (f) **Military Decorations.** Medallions, flags, and other decorations associated with service in a branch of the United States Military or a police or fire department are permitted in the Cemetery and are exempt from the height requirements set forth in this Section.

**SEC. 12-4-16 MAINTENANCE AND REPAIR OF GRAVESTONES OR MONUMENTS.**

The Village shall have no obligation or responsibility to maintain or repair Gravestones or monuments in the Cemetery. The Village may take action to address any Gravestone or monument that is determined to be unsafe, including but not limited to, the removal of such Gravestone or monument, or laying a damaged Gravestone flat on the ground. In the case of removal, the Village shall send a written notice to the last known address of the Lot Owner, if it can be determined. Any Gravestones or monuments removed shall not be replaced by the Village. Replacement Gravestones or monuments shall not be greater than the ground level pursuant to Village Ordinance Sec. 12-4-14(c)(2).

**SEC. 12-4-17 DISCLAIMER-RESPONSIBILITY OF VILLAGE LIMITED.**

The Village of Caledonia shall take every reasonable precaution to protect all private property or Lot and Grave Owner's property in the Cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control and especially from the act of thieves, vandals, rioters, and malicious mischief makers and from all acts of God including unusual wind, tornadoes, cyclones, hail, snow and frost, whether the damage be indirect or proximate.

**SEC. 12-4-18 PENALTIES.**

Any person violating any provision of this Chapter shall be subject to the penalties in Section 1-1-6 of the Village of Caledonia Code of Ordinances.”