

**TOWN OF SPRUCE
ORDINANCE #02-2023**

Town of Spruce Cemetery Ordinance.

STATE OF WISCONSIN
Town of Spruce
Oconto County

SECTION I – TITLE AND PURPOSE

The title of this Ordinance is the “Town of Spruce Cemetery Ordinance.” The Purpose of this Ordinance is regulate the construction, management, operation and platting of cemeteries, the burial of human corpses, and other uses and activities in the town.

SECTION II – AUTHORITY

The Town Board of the Town of Spruce has the specific authority under S.175.50(2), Wis. Stats. And general authority under its village powers under s.69.22, Wis stat., to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

The Town Board of the Town of Spruce, by this ordinance, adopted with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the town to regulate 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.
- 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 within a block platting in accordance with Section VI, whether or not occupied.
- 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 Spruce, Oconto County, Wisconsin

- H. "Town Board" means the board of supervisors for the Town of Spruce, Oconto County, Wisconsin and included 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 Spruce, Oconto County, Wisconsin, under s. 157.50, Wis. Stats., that is located within the town.
- J. "Town Chair" means the chairperson of the Town of Spruce, Oconto County, Wisconsin.
- K. "Town Clerk" means the clerk of the Town of Spruce, Oconto County, Wisconsin.
- L. "Town Treasurer" means the treasurer of the Town of Spruce, Oconto 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 upper case Roman numerals. Sections may be divided into subsections designated by upper case letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lower case letters. Subdivisions may be divided into subdivision paragraphs designated by lower case Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" included all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI – STATEMENT OF POLICY

Every town cemetery is owned, operate, directly controlled, and maintained by the town of the benefit of all citizens. Person of all denominations of all religions, sexed, 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 – PLATTING OF NEW CEMETERY LOTS AND NEW OR EXPANDED CEMETERY OPERATION

- A. **Platting.** Before any new section of any existing town cemetery or any other new or expanded cemetery in the town is opened for 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 Oconto County, Wisconsin, in accordance with s. 157.065, Wis. Stats.
- B. **Single grave section.** The town board or 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 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.

SECTION VIII – PURCHASE OF LATS IN TOWN CEMETERY

- 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 the town cemetery.

- B. Sale of lots.** 1. Persons, or their authorized agents, desiring to purchase a lot in any town cemetery for burial are referred to the town board, town clerk, or sexton. The town board, town clerk, or sexton shall have available suitable plats showing size and price of lots, and any other information that may be required, and render assistance to those desiring to make lot purchases. The town board, town clerk, or sexton shall issue a lot order for a selected lot to the prospective purchaser, or his or her agent, who shall present the order at the office of the town clerk.

SECTION IX – OWNERSHIP RIGHTS OF BURIAL IN TOWN CEMETERY

- A. Ownership conditions.** 1. The owner of a town cemetery lot, or his or her authorized agent, shall have the right to use a lot or portions of a lot for burial purposes only in accordance with the terms of this ordinance or any town cemetery bylaws and regulations. 2. Upon full payment by any person of the purchase price of a town cemetery lot, the town clerk and town chair shall issue a cemetery lot deed, under seal, as provided in Section VIII, subsection B., and a copy of the deed shall be filed in the records of the town as evidence of ownership of the lot
- B. Burial.** 1. In this subsection, “relative” means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law or sister-in-law, uncle or aunt, and nephew or niece. 2. 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 spouses, 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 clerk, for the burial of specific persons other than the owner and 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. 3. Unless otherwise directed in writing filed with the town clerk by the lot owner under paragraph 2, the town board or the sexton shall permit the burial of persons at any town cemetery lot at the request of any interested person upon proof of eligibility for burial at the cemetery as follows: a) The lot owner, and surviving spouse of the lot owner, have the first right to burial or to direct the right of burial. b) When there is no surviving spouse, the devisees or heirs of the owner may, by agreement in writing of all the heirs or devisee, determining who shall have the right of burial or direction for burial, which agreement shall be filed with the town clerk. c). If no agreement under subdivision b. is filed, the town board or the sexton may determine use, giving preference to relatives in the order list in paragraph 1.
- C. 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 owners or part owners of lots
- D. Resale.** Lot owners may not resell or transfer lots or parts of lots in any town cemetery except as follows:
- E. Reburial.** 1. In this subsection “reburial” means to disentomb, disinter, or disinter human remains that are buried in a cemetery and re-entomb, or re-inter the human remains in another grave, mausoleum space, or other place used or intended to be used for the burial of human remains that is located in the same cemetery. 2. Any reburial of any person buried in a town cemetery, or in any other cemetery in the town, shall comply with the provisions of s. 157.112 Wis. Stats. Any person seeking burial shall seek approval from the appropriate cemetery authority. A reburial permit shall be required prior to any reburial under s. 69.18(4), Wis. Stats.

SECTION X – CARE OF LOTS AT THE TOWN CEMETERY

- A. Perpetual care.** Perpetual care is limited to the maintenance of lawn, leaf disposal, filling sunken graves, raising markers, and caring for avenues, alleys, fences, buildings, and grounds

in general. The town board shall operate and maintain the town cemetery to provide proper and decent care of town cemeteries, and the graves, and it may employ a sexton, staff, and any independent contractor necessary to provide such care.

- B. **General Improvements.** The town board shall direct and administer all improvements and maintenance within the cemetery before and after any burials. The town board shall be responsible for determining proper and decent care of the cemetery. All graves shall be sodded and mowed, when determined necessary by the town board or the sexton. The grade of the cemetery lots shall be determined by the town board or the sexton. The corners of all cemetery lots shall, when purchased, if possible, be permanently marked by the town board or the sexton. Re-sodding of existing graves or following disinterment will be done when determined necessary by the town board or the sexton.

SECTION XI – PRIVILEGES AND RESTRICTIONS IN TOWN CEMETERIES

- A. **Bylaws and regulations.** The town board may adopt bylaws and regulations for the management and care of any town cemetery and may enforce those bylaws and regulations under s.157.11(2), Wis. stats. The town board may require any person owning or controlling a cemetery lot to do anything necessary to comply with the bylaws or regulations by giving reasonable personal notice in writing if the person is a resident of the state, otherwise by publishing a class 3 notice, under chapter 985, Wis. Stats., in the county. If the person fails to comply within 20 days thereafter, the town board may cause the action required to be done and impose a forfeiture not exceeding \$10.00 for violation of the bylaws or regulations posted in 3 conspicuous places in the cemetery, recoverable under chapter 778, Wis. Stats.
- B. **Mounds prohibited.** No person may raise the level of the earth over any grave in a town cemetery above the general level of the cemetery lot.
- C. **Landscaping.** All landscaping, mowing, and general care of lots, and other work, construction or maintenance in the town cemetery shall be performed by the town by its officers, employees, independent contractors, or agents, including any sexton, unless otherwise provided in writing by the town board.
- D. **Access to lots; opening and closing burial places.** The town reserves the right for its officers, employees, contractors, and agents, including the sexton and the town board, necessary to the performance of normal town cemetery operations to enter upon or cross over any lot in any town cemetery in the performance of any duties or work necessary under this ordinance. The town board, by its officers, employees, contractors and agents, including the sexton, has the sole right to the opening and closing of burial places used or to be used for burial of human remains in the town cemetery, unless so ordered by a court of record to open or close such places.
- E. **No assumption of liability for damages.** The town, and its officers, employees, contractors, and agents including the sexton and the town board, assume no liability for damages to property or person, or for physical or mental suffering arising out of the performance of its normal operations related to the construction, management, operation, maintenance, care, and platting of any town cemetery, including care of the cemetery, any lot and the graves, or for loss by vandalism or other acts beyond its reasonable control at a town cemetery.
- F. **Altering physical conditions.** The town board reserves the right to alter, change, or close alleys, roadways, walkways, water mains, and other physical public properties at any town cemetery.
- G. **Enforcement of regulations and ordinance.** The town board may appoint, with citations issuance and service powers, any employee or agent of the town, including the sexton, to administer and enforce its town cemetery bylaws and regulations, and this ordinance.

SECTION XII – RULES FOR VISITORS TO TOWN CEMETERIES

- A. **Visiting hours.** Every town cemetery shall be open to visitors at all times from sun up to sun down. Permission to enter any town cemetery at any other time must be obtained from the town board or the sexton.
- B. **Dogs and other animals.** Dogs are permitted in any town cemetery only when confined in a vehicle or if the dog is a service animal accompanying a person with sight impairment or other disability while in the town cemetery. All other pets or domestic animals are prohibited without written consent of the town board or sexton, except a service animal other than a dog accompanying a person with sight impairment or other disability while in the town cemetery.
- C. **Firearms.** Firearms are prohibited in any town cemetery except in conjunction with military funerals or specific memorial events permitted by the town board, the sexton, or other designees of the town board. At all other times firearms, bows and arrows, slingshots, and other like articles are prohibited.
- D. **Protection of cemetery property.** No person without written consent of the town board or the sexton may do any of the following: 1. Trap, hunt, kill, injure, or disturb, or attempt to trap, hunt kill, injure, or disturb any animal, bird, or waterfowl, wild or domestic. 2. Climb any tree. 3. Break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property within any town cemetery, except as otherwise provided in this ordinance.
- E. **Authorized notices.** No person may post, paste, fasten, paint, or attach any placard, bill notice, sign, or advertising matter upon any structure, tree, or other natural object in any town cemetery, except with the written consent, or at the direction, of the town board or the sexton. No person shall remove, deface, or damage in any manner any sign or notice posted in any town cemetery by or at the direction of the town board or sexton unless approved by the town board or the sexton.
- F. **Working in cemetery.** All contractors or other person having work in the town cemetery shall notify the town clerk or the sexton prior to commencement of the work. All contractors or others doing work in the town cemetery are responsible for the cost for any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages or loss by the town board, pay that sum to the town board.

SECTION XIII – TOWN CEMETERY BURIALS

- A. **Outer containers.** All burials and re-interments, at any town cemetery, shall be made in a permanent outer burial container not constructed of wood.
- B. **Grave digging.** 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, but shall be under the direction of the town board or the sexton. Depth of graves shall conform to State of Wisconsin rules and specifications. The town board or the sexton may charge the full cost for any grave digging and opening service provided by the town at any town cemetery, including the fees for the sexton or other designee of the town board, for staking the plot, if the town board has authorized the town or its officers, employees, contractors, or agents, including the sexton or other designees, to provide grave staking, grave openings, or digging services. The town board or the sexton may also establish charges for snowplowing and seasonal additional access costs to the lot owner incurred by the town to provide for burial or disinterment services. Arrangements for any disinterment or burial services, including payments due to the town, shall be made with the town clerk, the sexton, or other person designated by the town board at least 48 hours in advance of the service. The time for any disinterment or burial service shall be arranged so that the grave shall be properly filled and surplus earth removed before 4:30 p.m. on the day of the disinterment or

burial service, unless that requirement is specifically waived in writing by the town clerk or sexton.

- C. **Maintenance of flowers, wreaths and other personal items at burial sites.** There shall be no responsibility on the part of the town, its officers, employees, contractors, or agents, including the sexton 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 in conjunction with funerals or burials, including disinterment's, or memorial events. The town board shall place or cause to have placed a notice of disclaimer of responsibility consistent with this subsection at vehicle access locations to each town cemetery.
- D. **Number of graves per lot.** No lot at any town cemetery may be used for the burial of more than one body except in the following circumstances: **1.** Two remains from cremation shall be allowed in one lot with one headstone or two flat markers to be placed only in line with other stones. **2.** One full body and two remains from cremation shall be allowed in one lot, with one headstone or three flat markers to be placed only in line with other stones. **3.** All cremation remains shall be place in a permanent outer burial container not constructed of wood.

SECTION XVI – TREES, SHRUBS, AND FLOWERS AT TOWN CEMETERY

- A. **Tree and shrub planting.** The planting at any town cemetery of trees and shrubs on newly purchased lots or parts of lots is prohibited except by written consent of the town board or the sexton.
- B. **Large tree removal.** Lot owners may, with the written consent of the town board or the sexton, remove large trees on or adjacent to cemetery lots in any 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. **Potted plants.** Potted plants at any town cemetery may be set on lots, without disturbing the sod if removed within 5 days after being set. If a potted plant is not removed within 5 days of being set on the lot, the potted plant may be picked up and destroyed by the town board or the sexton of the town or removed and preserved for planting within the town cemetery.
- D. **Artificial flower decorations-baskets.** Artificial flower decorations are prohibited in any town cemetery unless in a vase or pot and when so used will be treated as potted plants. Unfilled or unsightly baskets will be removed from the lot by the town board or the sexton.
- E. **Flower beds.** Individual flower beds or growing plants other than trees or shrubs are permitted at any town cemetery but must be of a reasonable size as determined by the town board or the sexton. In case of doubt, the town board or the sexton of the town should be consulted. Flower beds or growing plants that are not maintained, become unsightly or undesirable, or are not of reasonable size as determined by the town board or the sexton will be removed by the town board or the sexton.
- F. **Plant or flower removal.** Plants or flowers planted in a town cemetery may not be taken up or removed by any person or cuttings removed from plants in a town cemetery without written consent from the town board or the sexton, except that plants in flower beds and growing plants authorized under subsection F may be removed or cut by the person who planted the flower bed or growing plant.
- G. **Vine, wreath and memorial removals.** Vines that interfere with the proper care of lots or graves or injure or damage the grass will be removed from any town cemetery by the town board of the sexton when found objectionable. Neither real or artificial wreaths, temporary or permanent, nor memorial or personal memorabilia items will be allowed on lots or graves without written consent of the town board or sexton.

SECTION XVII – MISCELLANEOUS

- A. **Fee payment location.** All fees and charges for any town cemetery in the current schedule of fees and charges adopted under subsection B are payable to the town treasurer at the office of the town clerk, where receipts will be issued for the amounts paid.
- B. **Sexton.** The town board, by resolution, may designate, retain, or employ a person as sexton or 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 or of any town cemetery pursuant to this ordinance. The sexton may be a town employee or may, with proper insurance and indemnification protection for the town, its officers, employees, and agents, be an independent contractor or agent retained under written contract for a fixed time of years. The town board, consistent with this ordinance, shall designate the authority, responsibility, and duties to the sexton by written resolution. The town board shall be responsible for proper supervision of the sexton.
- C. **Amendment of ordinance.** The town board reserves the right to amend this ordinance to conform to 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 shall be held 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 XVIII – EFFECTIVE DATE

This ordinance is effective upon publication.

The town clerk shall properly publish this ordinance, as required under s. 60.80 Wis. Stats.

ADOPTED THIS 16th day of August, 2023


Chairman Terry Brazeau


Supervisor Brad Paitl


Supervisor Suzanne Verhagen

ATTEST: 
Lisa Peitersen, Clerk