

ORDINANCE #2021-09-07-1
BETHEL CEMETERY ORDINANCE

Section 1. - Purpose.

This chapter is enacted for the purpose of protecting cemetery areas within the Town of Elba, Dodge County from injury, damage or desecration.

Section 2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery means and includes all cemetery property, grounds, equipment and structures, both privately and publicly owned, located within the city.

Section. 3. - Town cemetery established.

Bethel Cemetery is owned and maintained by the Town of Elba for the benefit of all its citizens. Definite rules and regulations must be set by the Town Board to ensure proper maintenance and beauty and to prevent abuse and destruction. The rules and regulations are set forth in this Ordinance to govern Bethel Cemetery. The Town reserves the right to amend or change any of these rules or regulations to conform to newly developed cemetery practices. Bethel Cemetery shall be maintained and operated as per Section 157.50 to 157.65 WI Stats.

Section 4. - Rulemaking and other authority of Town of Elba.

The Town shall have the authority to establish reasonable rules, management, operation and regulations to regulate and govern the cemetery in accordance with state law and this Ordinance. The Town shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flowerpots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations by the Town.

Section 5. - Town not liable for damages.

The Town, or its Board members, Town officials, agents or employees assumes no liability for damages to property or of person, or for physical or mental suffering arising out of performance of its operations, or for loss by vandalism or any other acts beyond its reasonable control.

Section 6. - Right of Town to change roadways, water mains and other Town facilities.

The Town reserves the right to alter, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

Section 7. - Fees and charges.

Fee of a 4' x 8' grave lot will be \$600.00 each.

CEMETERY USE REGULATIONS

Section 8. - Visiting hours

The cemetery will be open to visitors at all times.

Section 9. - Disturbing grave sites prohibited.

No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot, or a person with the cemetery lot owner's consent, or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot. No person shall move or remove any cemetery equipment without the owner's consent.

Section 10. - Posting unauthorized notices and disturbing authorized notices prohibited.

No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.

Sec. 11. - Damage to and interference with wildlife and landscaping prohibited.

No person shall trap in any cemetery; nor shall any person kill, injure or disturb, or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Ordinance.

Visitors are required to use the walks and drive whenever possible. No person shall climb any tree, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.

Section 12. - Picnics and other social gatherings prohibited.

No picnic, parties, or similar social gatherings are permitted.

Section 13. - Alcohol beverages prohibited.

No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Town.

Section 14. - Animals prohibited.

Pets, including animals of any species, and horses are prohibited in any cemetery except for dogs, which must be leashed.

Section 15. - Empty

Section 16. - Vehicle use restricted.

Vehicle speed limit. Vehicles traveling in the cemetery shall not exceed 15 miles per hour unless otherwise posted.

Operation outside designated areas prohibited. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate a motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It is unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.

Vehicles other than automobiles prohibited; exception. No riding of bicycles, motor bikes, motorcycles, snowmobiles, or such vehicles will be allowed in the cemetery unless in conjunction with cemetery business. No person shall operate or make use of any coaster, skateboard, roller skates, sled, toboggan, unicycle or play or toy vehicle upon any cemetery property without the owner's consent.

Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the Town at the vehicle owner's expense.

Section 17. - Littering prohibited

No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.

Section 18. - Sound devices prohibited; exception.

No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

Section 19. - Loitering prohibited.

No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.

LOT SALES, DESIGN AND MAINTENANCE

Section 20. - Town assistance to prospective lot purchasers.

Prospective lot purchasers may visit the cemetery for information without obligation. Lot owners may contact the Town clerk or his/her duly authorized agent during the normal business hours if the meaning and intent of cemetery regulations are unclear or if other information is desired.

Section 21. - Lot marking.

Each lot in the cemetery will, prior to sale, be suitably marked by the Town with a metal, brick or concrete post placed on each lot corner and set level with the adjacent ground. To maintain accuracy and uniformity of marking, substitutes or additional corner posts may be used only if approved by the Town.

Section 22. - Lot purchase procedure; cemetery deed.

Persons or their agents desiring to purchase a lot in the cemetery are referred to the Town clerk or to his/her duly authorized agent. The clerk will have available suitable plats showing size and price of lots and such other information as may be required and will render assistance to those desiring to make lot purchases. Upon having made a lot selection, the prospective purchaser must consummate the sale in the office of the Town clerk where the lot sale will be made, and deed issued.

Upon full payment of the purchase price of the lot, the Town clerk or his/her duly authorized agent will issue a cemetery deed; and the deed will be recorded in the records of the Town as evidence of lot ownership. Lots or fractions of lots for which lot deeds have been issued by the Town will not thereafter be divided except by consent of the Town.

Section 23. - Descent of ownership.

All burial rights in cemetery lots purchased from the Town occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the Town will be recognized as owners or part owners of lots.

In case of the death of a lot owner, when the lot is disposed of by a will and when ownership is to be determined, a certified copy of the will must be delivered to the Town clerk before the Town will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided.

It is recommended that lot owners, in making their wills, include a provision covering cemetery lots and devise the same to one person.

Section 24. - Approval required for resale of lot.

Lot owners may not resell or transfer their lots or parts of lots, except as outlined below:

Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the Town clerk or his/her duly authorized agent. Such application shall be executed by the owners of the lots or, if owners are deceased, by the legal heirs. The application shall state the lot and block number.

The Town clerk shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots.

No such reconveyance shall be received and recorded by the Town clerk until a fee in the amount provided in the Town fee schedule shall have been paid therefor. Fees collected shall be deposited into the Town's general fund or other fund established by the Town under Wis. Stats section 157.50.

Section 25. - Taxes and liens on cemetery lots.

All lots are exempt from taxation, and they cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.

Section 26. - Lots to be used for burial purposes only.

The lot owner or his authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.

Section 27. - Use of repossessed lots; fees and charges.

Whenever possible, repossessed lots will be used for burials before new areas of the cemetery are used or platted. All repossessed vacant grave spaces shall be subject to the same fees and charges.

Section 28. - Vaults and mausoleums.

Construction of any aboveground vaults or mausoleums is prohibited. Underground vaults, of concrete or steel, shall be required for all grave openings that measure not less than 26 inches wide by 56 inches long.

Section 29. - Lot design and maintenance.

Landscaping; consultation of owners with Town personnel. All landscaping, care of lots and other work in the cemetery will be done by the Town, but it is desired that each lot owner feel free to consult with those in charge of the cemetery at all times. Their advice will be given without charge and may be of value to those contemplating the purchase of or improvements to cemetery lots.

Right of entry of Town personnel for maintenance. The Town reserves the right for its workers and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the performance of such duties.

Trimming and pruning of landscaping material prohibited; exceptions. No person will be permitted to trim, prune, or remove branches from any existing tree or ornamental shrub in the cemetery, whether on his lot or not. All work of pruning or trimming trees or removal of trees shall be done under the direction of the Town clerk. Lot owners may remove, under the direction of the Town clerk, large trees on grave sites that hinder the full usage of the grave site. The expense of the tree and stump removal will be paid for by the lot owners.

Mound height restricted. No mound shall be raised upon any grave above the general level of the lot.

Lot enclosures prohibited. No hedges, fences or enclosures of any kind will be permitted on or around lots.

Natural flowers and plants. Natural flowers in approved vases which are the temporary pin-type bases are permitted. Potted plants in pots up to ten inches will be allowed as other sizes are not suitable for cemetery use. No pots will be allowed to be dug into the ground. Pots placed in stands that are approved by the Town may be up to 14 inches in size. All pots are measured by diameter at the top. Pots normally should be set in front of or close to the memorial. All other plantings are strictly prohibited and will be removed. This includes unauthorized trees, bushes, and evergreens.

Artificial flowers and plants. Artificial flowers shall be allowed on any of the graves in the cemetery during a period of time of one week before Memorial Day each year and for two weeks thereafter, and at no other time shall the artificial flowers be allowed in the cemetery during the growing season. Artificial flowers are allowed if in a container off the ground or attached to stone, so they do not interfere with mowing.

Fall and winter decorations. All fall and winter decorations must be removed by April 15. Insofar as is possible, persons should refrain from placing any new decorations during this period.

Section 30. - Monuments and markers.

Permit required; fee; professional installation only. Grave markers and foundations will be set only by the monument company according to regulations specified by the Town. The lot must be paid in full before markers or monuments are set or any burial is authorized by the Town clerk or his/her duly authorized agent.

Supervision of Town personnel may be required. The setting of monuments, stones and markers and the transportation of all tools, materials, and other equipment within the cemetery grounds may be subject to the supervision and control of Town personnel. Whenever possible, at least 48 hours' notice shall be given to the Town clerk or his/her duly authorized agent that the work is to take place. Except when special permission is obtained, all work shall be completed, and debris removed immediately.

Town's right to determine design and construction specifications. Except as herein otherwise provided, under no conditions will the Town construct monument or marker bases or erect monuments or markers on bases. The Town reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stonework. In addition, the Town reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument or stonework must be given to the Town clerk or his/her duly authorized agent and approved before the work will be permitted on a lot.

Positioning; minimum construction requirements. All monuments must be set in line with other monuments so far as possible as directed by the Town clerk or his/her authorized agent. The top of the concrete foundation will be constructed flush with the ground line. All markers will be set with a five-inch margin. Stonework or monument work, once placed on its foundation, shall not be removed, except by permission of the Town clerk or his/her duly authorized agent.

Heavy vehicles restricted. Heavy trucking will not be permitted within the cemetery when, in the opinion of the Town clerk or his/her duly authorized agent, such work might cause damage to the driveways.

Temporary markers. Temporary markers must be removed or replaced with a permanent marker within one year.

INTERMENTS AND DISINTERMENTS

Section 31. - Persons who may be interred in a purchased lot.

Unless otherwise directed in writing and filed with the Town clerk or his/her duly authorized agent, the lot owner, his devisees, or his heirs, the cemetery will permit the interment of members of his family at the request of any interested person upon proof of eligibility for burial as follows:

The surviving spouse of the lot owner shall have the right to interment or to direct the right of interment.

When there is no surviving spouse, the devisees, or heirs of the owners, may, by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the Town clerk or his/her duly authorized agent.

In the event the owner, his devisees or heirs shall not have arranged for future interments, then the devisees or the heirs of such owner shall have the right to interment in order of their need.

The lot owner may grant written permission (which must be notarized and placed on file with the Town clerk) for the burial of persons other than family members; provided, however, except as otherwise provided in this section, no corpse shall be interred in a lot, except the corpse of one having an interest

therein, or a relative, or the husband or wife of such person, or her relative, except by the consent of all persons having an interest in the lot.

Section 32. - Interment procedure and restrictions.

Notice to Town clerk. The Town clerk or his/her duly authorized agent shall, whenever possible, be given 48 hours' notice to ensure the opening and preparation of a grave prior to interment. Barring unforeseen circumstances, such grave shall be opened and prepared in time for interment. All graves shall be dug by appointed contractor under the direction of the Town clerk or his/ duly authorized agent.

Grave location. The lot owner or funeral director shall designate on the interment form the location of the graves on the lot to the Town clerk or his/her duly authorized agent and any change in location made after the opening of a grave has begun shall be at the expense of the lot owner. When definite information for locating a grave is not available 36 hours prior to grave preparation to meet the time requested for interment, the cemetery may exercise its best judgment in making a location in order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location and any additional charge will be made for any change requested.

One body per grave only; exception. The interments of two bodies in one grave will not be allowed, except in case of a mother and infant, twin children, or two children buried at the same time, one body and one cremains, or in special circumstances with the approval of the Town clerk or his/her duly authorized agent.

Multiple cremains per grave space; markers. Two cremains may be buried in a single grave space or in special circumstances with the approval of the Town clerk or his/her duly authorized agent.

Casket or other outer container. All remains will be made in a permanent casket or other outer container excluding the use of wood.

Fees. A charge for opening and closing a grave, including the sodding and seeding of the plot, will be made to the contracted grave digger prior to performance of the service. No burial will be allowed until all fees have been paid to the Town and contracted grave digger.

State health rules apply. All interments shall conform to the state board of health specifications.

No interments on Sundays or legal holidays. Interments will not be made on Sundays or official Town holidays, except by order of the local board of health.

Multiple burial schedules to be managed by Town clerk or his/her duly authorized agent. When several burials occur in a one- or two-day period, the burials may be scheduled at the discretion of the Town clerk or his/her duly authorized agent, but in a prompt and efficient manner.

Town not responsible for material used in conjunction with funeral. There will be no responsibility on the part of the Town for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.

Section 33. - Disinterment procedure and restrictions.

State health rules apply; fees. Disinterment's of bodies from graves in the cemetery will be made only by the Town in accordance with the requirements of the state board of health. Charges set by the Town for removal must be paid in advance.

State permit required. Lot owners, or their heirs, desiring graves opened may secure the necessary disinterment permit from the state and deliver the same to the Town clerk or his/her duly authorized agent. All removals will be made by the Town under the supervision of a licensed embalmer.

Graves to be opened only for official investigations. For sanitary reasons, graves will not be reopened for inspection except for official investigation.

Section 34. – Effective Date

This ordinance shall be effective after adoption by the Town board.

The foregoing ordinance was adopted at a regular meeting of the Town of Elba board on September 7, 2021.

Signed and dated Tuesday, September 7, 2021.

BY:

Number of votes for: _____

Jerry Gaska, Town Chair

Number of votes against: _____

Paul Walz, Supervisor 1

Peter Larson, Supervisor 2

ATTEST:

Wendy Stoeckler, Town Clerk